

41. The ice fishing tackle storage apparatus of claim 23 wherein the spacing structure is free of contact with the surface.

42. The ice fishing tackle storage apparatus of claim 23 wherein the spacing structure comprises a template, the template comprising a plurality of interior surfaces, the interior surfaces defining a plurality of apertures that extend through the first template, at least one of the elongate shells passing through one of the apertures of the template.

43. A bucket assembly, the bucket assembly comprising:
a bucket, the bucket having a water-holding capacity of at least about three gallons
and the bucket having a wall, the wall having a proximal end and a distal end
and the wall having an interior surface;
a plurality of elongate shells, the elongate shells each having an interior surface that
defines an elongate cavity and ice fishing tackle capable of being positioned
within the elongate cavity of each elongate shell; and
a first spacing component, the elongate shells each secured by the first spacing
component, the first spacing component in contact with the proximal end of
the wall, in contact with the interior surface of the wall, or in contact with
both the proximal end of the wall and the interior surface of the wall.

REMARKS

This Amendment After Final is submitted in response to the Office Action dated November 6, 2001. In the Office Action, the Examiner rejected claims 1-42 and withdrew claim 43 from consideration as allegedly "being directed to a non-elected invention." With this Amendment After Final, claims 14 and 36 are amended; no new claims are added; and no claims are canceled. Upon entry of this Amendment After Final the above-identified application will continue to include claims 1-43.

Examiner's Allegation Of Constructive Invention Election

In the Office Action, the Examiner withdrew claim 43 from consideration as allegedly "being directed to a non-elected invention." In support of this action, the Examiner stated:

Newly submitted claim 43 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claim 43 is drawn to a bucket assembly which has separate utility such as for holding other fishing items such as bait.

Since Applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

Despite the Examiner's comments, claim 43 is not in fact "directed to an invention that is independent or distinct from the invention originally claimed."

Claim 43 reads as follows:

43. *A bucket assembly, the bucket assembly comprising:
a bucket, the bucket having a water-holding capacity of at least about three gallons and the bucket having a wall, the wall having a proximal end and a distal end and the wall having an interior surface;
a plurality of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity and ice fishing tackle capable of being positioned within the elongate cavity of each elongate shell; and
a first spacing component, the elongate shells each secured by the first spacing component, the first spacing component in contact with the proximal end of the wall, in contact with the interior surface of the wall, or in contact with both the proximal end of the wall and the interior surface of the wall.*

Claim 6 of the above-identified application reads as follows:

6. *The ice fishing tackle storage apparatus of claim 1 wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a wall, the wall having a proximal end and a distal end and the wall having an interior surface, the spacing structure either in contact with the proximal end of the wall, in*

contact with the interior surface of the wall, or in contact with both the proximal end of the wall and the interior surface of the wall.

Claim 6 depends from independent claim 1 that reads as follows:

1. An ice fishing tackle storage apparatus, the apparatus comprising:

a pair of extendable elongate shells, the extendable elongate shells having an interior surface that defines an elongate cavity, the pair of extendable elongate shells located adjacent to each other, and ice fishing tackle capable of being positioned within the elongate cavity of each extendable elongate shell; and

a spacing structure, the pair of extendable elongate shells each secured by the spacing structure, the spacing structure effective to maintain the pair of extendable elongate shells in predetermined relation to each other, proximate the spacing structure.

While claim 43 employs "bucket" terminology, claim 6 employs "container." However, the specification of the above-identified application describes a "bucket" as an example of a "container" and likewise specifies that the apparatus 10 for storing ice fishing tackle in accordance with the present invention may or may not be placed in container, such as a bucket:

An apparatus for storing ice fishing rods in accordance with the present invention is generally depicted at 10 in Fig. 1. The apparatus 10 may be placed in a container 12, such as a plastic pail or bucket with a capacity ranging from about three gallons to about five gallons, or even more. Alternatively, the apparatus 10 may be used alone without replacing the apparatus 10 in the container 12.

(Page 3, line 26, through page 4, line 3.)

In support of the alleged constructive election by original presentation, the Examiner attempted to distinguish the invention of the above-identified application, as defined in claim 43, from the invention of the above-identified application, as defined in claims 1-42, such as claim 6, by alleging:

claim 43 is drawn to a bucket assembly which has separate utility such as for holding other fishing items such as bait.

However, Applicant notes that the elements required in claim 6, by virtue of claim 6 depending from independent claim 1, versus the elements required in 43 are fairly similar to each other, with one notable exception being that claim 6 calls for “extendable elongate shells,” rather than the “elongate shells” of claim 43. Furthermore, Applicant notes the Examiner’s stated reason for the invention of claim 43 allegedly being independent or distinct from the invention of the originally presented claims is equally applicable to the invention, as defined in claim 6. Specifically, the ice fishing storage apparatus of claim 6, which is positioned in a container, could be used “for holding other fishing items such as bait,” just as the bucket assembly of claim 43 could allegedly be used “for holding other fishing items such as bait.”

This equal applicability demonstrates the invention of the above-identified application, as defined in claim 43, is not in fact independent or distinct from the invention of the originally presented claims, such as originally presented claim 6. The Examiner’s attention is also drawn to claims original application 4, 5, 11, 15, and 20, which, like claim 6, also specify positioning the claimed ice fishing tackle storage apparatus “in a container.”

The foregoing comments are believed to adequately address the erroneous nature of the Examiner’s action. Consequently, Applicant respectfully requests that the Examiner reconsider and reverse the Examiner’s action of withdrawing claim 43 from consideration in the above-identified application as allegedly “being directed to a non-elected invention.”

Objection To The Drawings

In the Office Action, the Examiner objected to the drawings under 37 C.F.R. §1.83(a).

In support of this objection, the Examiner stated:

The drawings are objected to under 37 C.F.R. §1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fishing rod and ice fishing tip-up must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Applicant has amended Fig. 3 as indicated above, to depict the pre-rigged ice fishing tip-up of concern to the Examiner at 53a, the pre-rigged ice fishing rod of concern to the Examiner at 53b, and the reel or line windup of the pre-rigged ice fishing rod 53b at 53c.

The foregoing comments are believed to adequately address the Examiner's objection to the drawings. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the drawings.

Objection To The Specification

In the Office Action, the Examiner objected to the specification as allegedly failing to provide antecedent basis for some of the claimed subject matter. The Examiner's specific comments in this regard were:

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: first spacing component, second spacing component.

Despite the Examiner's comments, the specification of the above-identified application does indeed provide proper antecedent basis for the claimed first spacing component and the claimed second spacing component. In this regard, the Examiner's attention is first directed to page 4, lines 4-5, of the above-identified application that state: "The apparatus 10 may include a spacing structure, as a template 14." Next, the Examiner's attention is directed to page 4, lines 17-18, of the above-identified application that state: "Besides the template 14, the apparatus 10 may also include another spacing structure, such as a template 26." The Examiner's attention is also drawn to Fig. 1, where the two spacing structures, namely the template 14 and the template 26, are depicted. Further details about the templates 14, 26 are provided at page 6, lines 13-27, of the above-identified application:

The decision about whether to use one or both of the templates 14, 26 hinges, at least in part, upon how much potential movement of the proximal ends 32 toward each other is acceptable. Preferably, the apparatus 10 is constructed to minimize potential movement of the proximal ends 32 toward each other. Minimized movement of the proximal ends 32 toward each other is desirable to make it easier to

select and retrieve ice fishing tackle from the individual elongate shells, such as individual tubes 30. Use of both the template 14 and the template 26 typically helps to minimize the potential for movement of the proximal ends 32 toward each other, especially when the apparatus 10 is to be used in combination with the container 12. Alternatively, the material used to form the template 14 and/or the template 26, in combination with the thickness of the template 14 and/or the template 26, may be selected to minimize the potential for movement of the proximal ends 32 toward each other. As another alternative, the elongate shells, such as the tubes 30, may be mounted flush with the template 14 to minimize the potential for movement of the proximal ends 32 toward each other.

The foregoing citations to the specification of the above-identified application clearly establish that the specification provides proper antecedent basis for the claimed first spacing component and the claimed second spacing component, despite the Examiner's allegations to the contrary.

The foregoing comments are believed to adequately address the Examiner's objection to the specification. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the specification.

Claim Rejections Under The First Paragraph of 35 U.S.C. §112

In the Office Action, the Examiner rejected claims 10, 27, and 31 under the first paragraph of 35 U.S.C. §112 as allegedly "containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention." In support of this rejection, the Examiner stated:

The ice fishing rod having a reel or line wind-up attached to the ice fishing rod near the handle, the pre-rigged ice fishing rods, pre-rigged ice fishing tip-ups are not supported in the original disclosure. See page 3, line 24.

Despite the Examiner's comments, the features of claims 10, 27, and 31 are in fact supported by an adequate written description in the originally filed specification of the above-identified application.

First, the Examiner's attention is directed to page 1, line 25, through page 2, line 20, of the above-identified application which discusses the use of ice fishing rods and ice fishing tip-ups and pre-rigged forms of ice fishing rods and tip-ups that include hooks, lures, and fishing line. The final paragraph of this section discusses how the present invention solves entanglement difficulties of pre-rigged ice fishing rods and/or tip-ups while allowing continued use of conventional plastic pails for carrying such ice fishing tackle. Next, at page 10, lines 5-11, of the above-identified application, a discussion about insertion of pre-rigged ice fishing rods and tip-ups (with attached lures or bobbers) in one aspect of the present invention is provided. Further discussion of pre-rigged ice fishing rods and ice fishing tip-ups in accordance with the present invention is provided at page 13, line 15, through page 14, line 4 of the above-identified application.

Next, at page 10, lines 12-22, of the above-identified application, details about ice fishing rods and attached reels or line windups are provided. This section mentions that ice fishing rods have a handle end. Merriam Webster's Collegiate Dictionary defines a "reel" as "a small windlass at the butt of a fishing rod for the line." See Exhibit A: Page 981, 10th ed. (Merriam-Webster, Incorporated 1993). Merriam Webster's Collegiate Dictionary defines a "butt" as "the thicker or handle end of a tool or weapon" See Exhibit B: Page 155, 10th ed. (Merriam-Webster, Incorporated 1993). Merriam Webster's Collegiate Dictionary defines a "windlass" as "any of various machines for hoisting or hauling." See Exhibit C: Page 1355, 10th ed. (Merriam-Webster, Incorporated 1993). While this section of the above-identified application does not specifically state the reel or line windup is affixed proximate the handle, one of ordinary skill in the art of ice fishing tackle would readily recognize that line windups and reels of ice fishing rods are attached proximate the handle of ice fishing rods. Indeed, the collective teaching of Exhibits A-C, which is evidence of the knowledge of those of ordinary skill in the art of fishing rods, is that reels of fishing rods are located proximate the handle of the fishing rod.

Applicant notes that Applicant is not required to disclose such details that are within the knowledge of those of ordinary skill in the art. In re Alton, 76 F.3d 1168, 1175, 37 USPQ2d 1578, 1584 (Fed. Cir. 1996) ("If a person of ordinary skill in the art would have understood the

inventor to have been in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, then the adequate written description requirement is met.”); ADCO Products, Inc. v. Carlisle Syntec Inc., 110 F. Supp.2d 276, 291 (D. Del. 2000) (“To satisfy the written description requirement, the patent specification must convey with reasonable clarity to those skilled in the art that, as of the filing date sought, the applicant was in possession of the claimed invention. ... It is not necessary for an applicant to describe exactly the subject matter claimed, so long as the written description allows persons of ordinary skill in the art to recognize that the applicant invented what is claimed.”);

Novo Nordisk A/S v. Becton Dickinson & Co., 96 F. Supp.2d 309, 314 (S.D. N.Y. 2000) (“§ 112 does not require the express recitation in the parent application of every feature of the claims in a later continuation-in-part application, but rather calls for a determination on a case-by-case basis of whether a person of ordinary skill in the art would consider the later claimed subject matter to be part of the invention as originally disclosed.”); INHERENT PART: “In reaching that determination, material which is inherently part of the disclosure, even though not expressly disclosed, must be considered.”). Here, Applicant notes that line windups and reels of ice fishing rods are inherently positioned proximate the handle of the rod, as opposed to being positioned distant from the handle of the ice fishing rod. Applicant need not include express details about the line windups and reels of ice fishing rods being located proximate the handle of the ice fishing rod, since those of ordinary skill in the art would understand the line windups and reels of ice fishing rods would be located proximate the handle of the ice fishing rod, absent express disclosure to the contrary in the above-identified application. See York Prods., Inc. v. Central Tractor Farm & Family Ctr. 99 F.3d 1568, 1574, 40 USPQ2d 1619, 1624 (Fed. Cir. 1996) (“Without an express intent to impart a novel meaning to claim terms, an inventor's claim terms take on their ordinary meaning.”).

The foregoing comments are believed to sufficiently demonstrate the specification of the above-identified application contains an adequate written description for the feature of concern to the Examiner, as those features are defined in claims 10, 27, and 31. Consequently, Applicant

respectfully requests that the Examiner reconsider and withdraw the rejection of claims 10, 27, and 31 under the first paragraph of 35 U.S.C. §112 and that claims 10, 27, and 31 be allowed.

Claim Rejection Under 35 U.S.C. §102(e) Based upon The Thibodeaux Patent

In the Office Action, the Examiner rejected claims 1-2, 7-9, and 24-27 as allegedly being anticipated by U.S. Patent No. 6,185,860 to Thibodeaux (subsequently referred to “Thibodeaux patent”). In support of this rejection, the Examiner stated:

The patent to Thibodeaux shows an ice fishing storage apparatus having a pair of extendable elongate shells 12, 13, 14 having an interior surface that defines an elongate cavity. The shells are located adjacent to each other. The top portion 5 of the container acts as a spacing structure and secures the extendable elongate shells in a predetermined relation to each other.

Despite the Examiner’s comments, the Thibodeaux patent does not fully disclose each and every feature that is required by claims 1-2, 7-9, and 24-27. Consequently, the Thibodeaux patent does not anticipate any of claims 1-2, 7-9, or 24-27.

The comments of the Examiner demonstrate the Examiner is characterizing the top portion 5 of the Thibodeaux fisherman’s cooler as a spacing structure. Furthermore, the Examiner characterizes the elements 12, 13, and 14, collectively, as an extendable elongate shell “having an interior surface that defines an elongate cavity”. The Examiner further surmises that the pair of alleged extendable elongate shells are “located adjacent to each other.” However, the Examiner’s characterization of the Thibodeaux fisherman’s cooler is erroneous in several respects.

Claim 1 of the above-identified application reads as follows:

1. *An ice fishing tackle storage apparatus, the apparatus comprising:*

a pair of extendable elongate shells, the extendable elongate shells having an interior surface that defines an elongate cavity, the pair of extendable elongate shells located adjacent to each other, and ice fishing tackle capable of being positioned within the elongate cavity of each extendable elongate shell; and

a spacing structure, the pair of extendable elongate shells each secured by the spacing structure, the spacing structure effective to maintain the pair of extendable elongate shells in predetermined relation to each other, proximate the spacing structure.

As noted, the Examiner's characterization of the Thibodeaux fisherman's cooler is erroneous in several respects. First, referring to Figure 4 and to column 2, lines 35-49, of the Thibodeaux patent, it is clear the elements 12, 13, and 14 do not amount to an elongate shell, as alleged by the Examiner. Instead, the elements 12 in the fishing rod holder 10 constitute a plurality of concentric cup members 12 of varying diameter. Next, the element 13 is a longitudinal U-shaped groove in each of the concentric cup members 12. Finally, the element 14 is a U-shaped protrusion that appears on the outer surface of each concentric cup member 12.

Next, the Examiner alleges the cup members 12 collectively have an interior surface that defines an elongate cavity. This is an erroneous conclusion, since the concentric cup members 12 are in fact simply cups, where the bottom of each cup prevents adjacent cups from collectively defining an elongate cavity. Essentially, the cups have a varying diameter so they may nest in cups having a smaller diameter. This allows fisherman to remove those cups having a diameter smaller than the diameter of the rod desired to be held in the fishing rod holder 10. (See lines 35-37 in Col. 2 of the Thibodeaux patent).

Thus, Figure 4 of the Thibodeaux patent does not disclose an extendable series of members that collectively define an extendable elongate cavity. Instead, the depiction of the cup members 12 with varying diameters in Figure 4 simply shows the relationship of the inner diameter to the outer diameter of adjacent cup members 12. Indeed, viewing the fishing rod holders 10 that are depicted in Figure 1 and cup members 12 in Figure 4, it is clear the height of the cup members 12 decreases from the cup with the largest diameter to the cup with the smallest diameter (to accommodate the thickness of the cup bottoms) such that the cup members 12, when nested, do not extend above each other.

Nonetheless, even in light of these detailed comments about the cup members 12 of the Thibodeaux fishermen's cooler that were presented in response to the prior Office Action, the Examiner responded to those prior comments with the following allegation in the present Office Action:

However, Fig. 4 clearly shows an extendable series of members that define an extendable elongate cavity.

The Examiner may imagine that Figure 4 allegedly discloses such details, but the Thibodeaux patent, such as in Figure 4, does not in fact show "an extendable series of members that define an extendable elongate cavity," as explained in exhaustive detail in the previous three paragraphs of this Amendment After Final. The above-recited statement of the Examiner disregards the details that are provided in the Thibodeaux patent, while adding imaginary details that simply do not exist in the Thibodeaux patent.

The foregoing comments demonstrate the Thibodeaux patent does not in fact disclose either of the extendable elongate shells with the interior surface that defines an elongate cavity, as required by claim 1. Furthermore, Applicant notes the fishing rod holders 10 are in fact based far apart from each other at corners of the top surface 5, as in Figure 1 of the Thibodeaux patent. Thus, despite the Examiner's allegation, the fishing rod holders 10 of the Thibodeaux device are not located adjacent to each other. Therefore, it is clear the Thibodeaux patent does not disclose the pair of extendable elongate shells that are located adjacent to each other, as required by claim 1.

Next, claim 2, which depends from claim 1, reads as follows:

2. *The ice fishing tackle storage apparatus of claim 1 wherein the spacing structure comprises a first template, the first template comprising a plurality of interior surfaces, the interior surfaces defining a plurality of apertures that extend through the first template, each extendable elongate shell passing through one of the apertures of the first template.*

Claim 2 thus requires a first template, where interior surfaces of the first template define "a plurality of apertures that extend through the first template". Furthermore, claim 2 requires that each extendable elongate shell pass "through one of the apertures of the first template."

The Thibodeaux patent describes a bore that receives the cup member 12 with the largest outside diameter. (Col. 2, lines 46-49). The bore is not depicted in any of the figures of the Thibodeaux patent. Thus, the Thibodeaux patent does not disclose anything about the bore extending through the top portion 5. Rather, all we know is that the cup members 12 rest in this bore. Furthermore, the Thibodeaux does not say anything about there being a friction fit between the largest diameter cup member 12 and the bore. Additionally, it is noted that the cup members 12 do not include any type of lip that would prevent the cup members 12, such as the largest diameter cup member 12, from slipping through the bore. Consequently, it is clear the bore does not extend through the top surface 5, but instead apparently has a bottom surface that supports the cup members 12 and prevents the cup members 12 from falling through the bore.

Nonetheless, despite the comments of the previous paragraph that were submitted in response to the prior Office Action, the Examiner, in the present Office Action, persists with the following unsupported allegation:

The cups of Thidodeaux can be considered as tubes that are male an [sic] female noting Fig. 4.

This allegation of the Examiner is not supported by the facts of the Thibodeaux patent. Applicant notes the Thibodeaux patent itself defines the cup members 12 in terms of “cup” terminology. Merriam Webster’s Collegiate Dictionary defines a “cup” as “an open usu. bowl-shaped drinking vessel” and as “a drinking vessel and its contents.” See Exhibit D: Page 283, 10th ed. (Merriam-Webster, Incorporated 1993). These definitions of “cup,” as well as the available disclosure from the Thibodeaux patent, are entirely inconsistent and non-supportive of the Examiner’s contention that the cups of the Thibodeaux patent “can be considered as tubes.” The Examiner’s allegations turn the definition of cup on its head. Clearly, the Examiner allegations are an improper attempt to elicit details from the Thibodeaux patent that simply are not present in the Thibodeaux patent.

The foregoing comments demonstrate the Thibodeaux fisherman’s cooler does not include a “plurality of apertures that extend through the first template” as required by claim 2. Furthermore, it is clear the cup members 12 do not pass through the bore of the Thibodeaux

fisherman cooler. Consequently, the Thibodeaux patent does not disclose the required detail about "each extendable elongate shell passing through one of the apertures of the first template," that is defined in claim 2. Consequently, the Thibodeaux patent does not disclose each and every feature that is required by claim 2.

Claim 8 of the above-identified application depends from claim 7, where claim depends from independent claim 1. Claim 8 reads as follows:

8. *The ice fishing tackle storage apparatus of claim 7 wherein the female elongate shell and the male elongate shell are each tubes.*

Claim 8 thus requires that at least one of the extendable elongate shells defined in claim 1 comprises a female elongate shell and a male elongate shell, as defined in claim 7. Claim 8 further requires that the female elongate shell and the male elongate shell each be tubes.

The Thibodeaux patent discloses cup members 12. These cup members 12 do not constitute tubes, since the cups instead have bottoms and, as characterized in the Thibodeaux patent are cups. Consequently, it is clear the Thibodeaux patent does not disclose the female elongate shell and the male elongate shell as tubes, in accordance with claim 8. Consequently, the Thibodeaux patent does not disclose the invention of the above-identified application, as defined in claim 8.

Claim 24 of the above-identified application, which depends from independent claim 1, reads as follows:

24. *The ice fishing tackle storage apparatus of claim 1 wherein the pair of extendable elongate shells comprise:*

a first extendable elongate shell having a first interior surface that defines a first elongate cavity, the first extendable elongate shell comprising a plurality of separable elongate shell components, each elongate shell component having an inner surface that defines an elongate cavity portion, the elongate cavity portions of each adjacent elongate shell component in communication with each other and the elongate cavity portions collectively forming the first elongate cavity; and

a second extendable elongate shell having a second interior surface that defines a second elongate cavity.

Thus, claim 24 requires, for the first extendable elongate shell, that the “elongate cavity portions of each adjacent elongate shell component [be] in communication with each other and the elongate cavity portions collectively forming the first elongate cavity.” The Thibodeaux patent does not disclose this aspect of claim 24 for reasons similar to those provided above with respect to claim 1 and claim 2. Specifically, the Thibodeaux patent discloses nested cup members 12, but does not disclose anything about these cups having elongate cavities that are in communication with each other.

Next, claim 25 depends from independent claim 1 reads as follows:

25. The ice fishing tackle storage apparatus of claim 1 wherein each elongate cavity is selectively and reversibly capable of being lengthened or shortened.

The Thibodeaux patent does not disclose any ability to selectively lengthen or shorten the elongate cavity of either of the pair of extendable elongate shells of claim 1 in accordance with claim 25. In connection with the Examiner’s rejection of claims 27-29 under 35 U.S.C. §103(a) based upon the Thibodeaux patent that is discussed subsequently, the Examiner alleges the Thibodeaux patent “shows a stop 13-14” and that it would allegedly “have been obvious to employ an adjustable stop.” However, as discussed above, the element 13 is a longitudinal U-shaped groove, while the element 14 is a U-shaped protrusion. These U-shaped grooves 13 and associated U-shaped protrusions 14 are not the stops that are apparently alleged by the Examiner to serve as a mechanism for allowing selective elongation of the non-existent communicative cavities of the different cup members 12. Rather, as mentioned in the Thibodeaux patent, the U-shaped grooves 13 and associated U-shaped protrusions 14 simply prevent “each cup member from rotating relative to the others.” (Col. 2, lines 41-46).

As discussed above, the Thibodeaux patent does not disclose the details required by claims 1, 2, 8, 24, and 25. Consequently, the Thibodeaux patent does not anticipate any of claims 1, 2, 8, 24, or 25, and claims 1, 2, 8, 24, and 25 are therefore each believed allowable. Furthermore, claims 7, 9, 26, and 27 each depend from allowable claim 1 and therefore are also believed allowable. Consequently, Applicant respectfully that the Examiner reconsider and withdraw the

rejections of claims 1-2, 7-9, and 24-27 under U.S.C. §102 based upon the Thibodeaux patent and that claims 1-2, 7-9, and 24-27 be allowed.

Claim Rejections Under 35 U.S.C. §102(b) Based Upon The Wolniak Patent.

In the Office Action, the Examiner rejected claims 10-15, 17-18, 30-34, and 37-38 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,827,658 to Wolniak (subsequently referred to as the "Wolniak patent"). In support of this rejection, the Examiner stated:

The patent to Wolniak shows an ice fishing and fishing storage device. In reference to claims 10, 30-34, Wolniak shows a pair of elongate shells 30, 30a, each having an interior surface that defines an elongate cavity that ice fishing tackle is capable of being positioned within. Wolniak shows a first spacing component or template 26 having a plurality of interior surfaces that define a plurality of apertures 22 and a second spacing component 21 in Fig. 2. In reference to claim 11, Wolniak shows the ice fishing tackle storage apparatus positioned in a container 10 that has an end wall 12 with an interior surface. The first spacing component is in contact with the interior surface of the wall as shown in Fig. 1. In reference to claim 12, Wolniak shows the second spacing component 21 in contact with the interior surface of the wall 11. Wolniak shows apertures or holes 23 in the bottom wall of the container which also can be considered as sockets which are joined to the elongate shells.

Despite these comments of the Examiner, the Wolniak patent does not disclose each and every feature that is required by any of claims 10-15, 17-18, 30-34, or 37-38. Consequently, the Wolniak patent does not anticipate any of claims 10-15, 17-18, 30-34, or 37-38.

Claim 10 of the above-identified application reads as follows:

10. (Amended) An ice fishing tackle storage apparatus, the apparatus comprising:

a pair of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity, at least one of the elongate cavities having a length that is adequate to accept a portion of an ice fishing rod within the at least one elongate cavity, the ice fishing rod having a tip and a handle, a reel or a line windup

attached to the ice fishing rod proximate the handle, the portion of the ice fishing rod extending from a tip of the ice fishing rod to the reel or line windup; a first spacing component, the pair of elongate shells each secured by the first spacing component; and a second spacing component, at least one of the elongate shells secured by the second spacing component, the second spacing component spaced apart from the first spacing component.

Claim 10 thus requires a pair of elongate shells that each define elongate cavities. Claim 10 further requires that at least one of the elongate cavities have a length adequate to accept a portion of an ice fishing rod, where the portion is defined as "extending from a tip of the ice fishing rod to the reel or line windup." Thus, at least one of the elongate cavities is required by claim 10 to be long enough to accept most of an ice fishing rod.

The Wolniak patent discloses a fishing tackle box with vertically disposed display tubes 30. However, these tubes 30 fit within what is depicted as a conventional fishing tackle box with a top that closes over the tubes. The Wolniak patent is purely concerned with storage of artificial fishing lures in the individual tubes 30. (Col. 1, lines 7-17; col. 3, line 59 through col. 4, line 10; and Figure 3). Indeed, the Wolniak patent further discloses that the cover portions 20a and 20b cover the upper ends of the tubes 30 to prevent the lures from falling out of the individual tubes 30 in the event the tackle box is overturned. (Col. 4, lines 26-44; and Figure 1). There is clearly no disclosure in the Wolniak patent about the tubes 30 having a length that is capable of accepting the majority of an ice fishing rod. Indeed, the covers 20a and 20b would not allow storage of an ice fishing rod in the tubes 30, since the reel or line windup parts of the rods and handle portions of the rod opposite the tip of the rod would prevent the cover portions 20a and 20b from being closed.

Furthermore, as mentioned above, the tubes 30 are intended solely for storing fishing lures. There is no disclosure in the Wolniak patent about the tubes 30 having a length long enough to accommodate a portion of an ice fishing rod extending from the tip of the ice fishing rod to the reel or line windup, as required by claim 10. Thus, the Wolniak patent does not disclose each and every feature that is required by claim 10.

In response to the foregoing arguments that were submitted in reply to the prior Office Action, the Examiner added the following additional comments in the present Office Action:

In reference to claim 10, applicant's argument that the references failed to show certain feature of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the tubes are long enough to store a majority of the fishing rod) are not recited in the rejected claim(s).

Applicant notes the Examiner apparently did not consider Applicant's argument about the Wolniak patent not disclosing a length for the tubes 30 "long enough to accommodate a portion of an ice fishing rod extending from the tip of the ice fishing rod to the reel or line windup," as required by claim 10. Applicant did at times paraphrase this element of claim 10 in the prior argument. However, Applicant points out to the Examiner that one of ordinary skill in the art of ice fishing tackle would readily recognize that the portion of an ice fishing rod extending from the tip of the ice fishing rod to the reel or line windup does in fact constitute the majority of the ice fishing rod. If the Examiner is aware of an ice fishing rod where this is not the case, the Examiner is invited to provide such evidence to teach Applicant more about ice fishing rods. Furthermore, Applicant again notes that Applicant *did* additionally argue the inability of the Wolniak tubes 30 to accommodate that portion of an ice fishing rod extending from the tip of the ice fishing rod to the reel or line windup, as required by claim 10.

Claim 14 depends from independent claim 10 and reads as follows:

14. (Amended) The ice fishing tackle storage apparatus of claim 10 wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a wall, the wall comprising one or more interior surfaces that define a recess in the wall or an aperture through the wall, the second spacing component comprising the recess or the aperture, one of the elongate shells passing through the aperture of the wall or positioned in the recess of the wall.

Claim 14 thus requires a container with a wall, where the wall has interior surfaces that define a recess in the wall or an aperture through the wall. Claim 14 further specifies that one of the elongate

shells previously defined in claim 10 passes “through the aperture of the wall” or is “positioned in the recess of the wall.”

The Examiner alleges that “Wolniak shows apertures or holes 23 in the bottom wall of the container which also can be considered as sockets that are joined to the elongate shells.” The Examiner is correct that the Wolniak patent discloses holes 23 in the bottom wall of the container. However, the Examiner is wrong about considering the holes 23 “as sockets which are joined to the elongate shells.”

With regard to the holes 23, the Wolniak patent states:

The bottom panel 13 is formed with a plurality of holes 23 therethrough which are formed to be positioned within the interior of each one of a plurality of vertically disposed display tubes 30 so that water dripping through the lures can pass out from the tackle box and air can circulate through to dry the lure.

(Col. 3, lines 14-19). This is the only disclosure in the Wolniak patent about the holes 23, other than the depiction of the holes 23 in Figure 1. There is no disclosure whatsoever about any joining of the tubes 30 with the holes 23. Instead, the Wolniak patent merely discloses positioning of an open end of the tubes 30 over the holes 23 to allow drainage of the tubes 30. Clearly, there is no disclosure in the Wolniak patent about a recess in the bottom of the container, where the tubes are positioned *in* the recess. Likewise, there is no disclosure in the Wolniak patent about an aperture in the bottom of the container, where the tubes 30 pass *through* the aperture. Indeed, from Figure 1, it is clear the diameter of the holes 23 are much smaller than the diameter of the tubes 30.

Clearly, the Wolniak patent does not disclose the recess or the aperture that are required in the alternative by claim 14 or the relationship of the elongate shell to either the aperture or the recess, as required in the alternative by claim 14. Consequently, it is clear the Wolniak patent does not disclose each and every feature required by claim 14.

Claim 15 also depends from independent claim 10 and reads as follows:

15. *The ice fishing tackle storage apparatus of claim 10 wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a wall, the apparatus further comprising a*

socket, the socket attached to the wall of the container, and one of the elongate shells positioned in the socket.

The comments provided above with respect to the hole 23 of the Wolniak patent in the context of the recess or the aperture of claim 14 are equally applicable to the socket that is defined in claim 15.

Claim 15 requires a socket that is attached to the wall of the container, with one of the elongate shells being positioned in the socket. The Examiner's comments about the holes 23 being considered as sockets "which are joined to the elongate shells," is clearly a stretch to the imagination that is not disclosed by the Wolniak patent. Clearly, the Wolniak patent does not disclose the socket or the positioning of the elongate shell in the socket that are required by claim 15. Therefore, the Wolniak patent does not disclose each and every feature required by claim 15.

Nonetheless, despite the foregoing comments that were submitted in response to the prior Office Action, the Examiner, in the present Office Action, supplied the following additional allegation that parallels the Examiner's prior allegation of the previous paragraph in this Amendment After Final: "The tubes 30 of Wolniak are joined to the holes 23 by way of the walls 11-12." Once again, this is a stretch to the imagination that is not disclosed by the Wolniak patent. The Wolniak patent simply does not disclose anything about the tubes 30 being "adjoined to the holes 23," either "by way of the walls 11-12," or otherwise. Instead, the Wolniak patent merely discloses positioning of an open end of the tubes 30 over the holes 23 to allow drainage of the tubes 30, but does not disclose any attachment mechanism for the tubes 30 to be joined to the walls 11, 12, as alleged by the Examiner.

Next, claim 30 of the above-identified application reads as follows:

30. *An ice fishing rod storage apparatus, the apparatus comprising:*
a pair of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity and ice fishing rods capable of being individually positioned within the elongate cavities of the different elongate shells;
a first spacing component, the pair of elongate shells each secured by the first spacing component; and

a second spacing component, at least one of the elongate shells secured by the second spacing component, the second spacing component spaced apart from the first spacing component.

For reasons analogous to those provided above with regard to claim 10, the Wolniak patent does not in fact disclose anything about ice fishing rods being individually positionable within the tubes 30 of the Wolniak fishing tackle box, despite the Examiner's comments to the contrary. Indeed, as previously noted, the covers 20a and 20b would not allow storage of an ice fishing rod in the tubes 30, since the reel or line windup parts of the rods and handle portions of the rod opposite the tip of the rod would prevent the cover portions 20a and 20b from being closed.

Next, claim 31 that depends from independent claim 30 reads as follows:

31. The ice fishing rod storage apparatus of claim 30 wherein the ice fishing rods are capable of being individually positioned within the elongate cavities of the different elongate shells with tips of the rods within the elongate cavities and with either the reels or line windups of the ice fishing rods or fishing line extending from the reels or line windups in contact with the elongate shells.

For reasons analogous to those provided above with regard to claim 10, the Wolniak patent does not disclose the details required by claim 31 regarding the ability to position ice fishing rods in the tubes 30 in the manner defined in claim 31.

Next, claims 32 and 33 read as follows:

*32. An ice fishing tackle storage apparatus, the apparatus comprising:
a pair of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity and ice fishing tackle capable of being positioned within the elongate cavity of each elongate shell;
a first spacing component, the pair of elongate shells each secured by the first spacing component; and
a second spacing component, at least one of the elongate shells secured by the second spacing component, the second spacing component spaced apart from the first spacing component;*

wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a wall, the wall comprising a one or more interior surfaces that define a recess in the wall or an aperture through the wall, the second spacing component comprising the recess or the aperture, one of the elongate shells passing through the aperture of the wall or positioned in the recess of the wall.

33. *An ice fishing tackle storage apparatus, the apparatus comprising:*
a pair of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity and ice fishing tackle capable of being positioned within the elongate cavity of each elongate shell;
a first spacing component, the pair of elongate shells each secured by the first spacing component; and
a second spacing component, at least one of the elongate shells secured by the second spacing component, the second spacing component spaced apart from the first spacing component;
wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a wall, the apparatus further comprising a socket, the socket attached to the wall of the container, and one of the elongate shells positioned in the socket.

For reasons analogous to those provided above with regard to claim 14, the Wolniak patent does not disclose the recess in the wall or the aperture through the wall that are required in the alternative by claim 32. Likewise, for reasons analogous to those provided above with regard to claim 15, the Wolniak patent does not disclose the socket details that are required by claim 33.

Next, claim 34 reads as follows:

34. *An ice fishing tackle storage system, the ice fishing tackle storage system comprising an ice fishing storage apparatus, the apparatus comprising:*
a pair of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity and ice fishing tackle capable

*of being positioned within the elongate cavity of each elongate shell; and
a first spacing component, the pair of elongate shells each secured by the first spacing component;
and
a first wall, the first wall attached to the first spacing component; and
a container, the ice fishing tackle storage apparatus positioned in the container, the container having a second wall, the first wall and the second wall defining a chamber within the container, an ice fishing tip-up capable of being placed in the chamber.*

Thus, claim 34 requires that the ice fishing tackle storage system be positioned in a container, where the ice fishing tackle storage system comprises a first wall that is attached to the first spacing component and the container has a second wall, with the first and second walls defining a chamber within the container and an ice fishing tip-up capable of being placed in the chamber thereby defined. Wolniak patent does not disclose any such chamber or walls defining such a chamber. Instead, the tubes 30 and associated spacing components of the Wolniak tackle box prevent any such chamber from existing and thereby the Wolniak tackle box lacks any ability to position a tip-up within such a chamber, as required by claim 34.

Next, claim 37 reads as follows:

37. *An ice fishing tackle storage apparatus, the apparatus comprising:
a pair of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity and ice fishing tackle capable of being positioned within the elongate cavity of each elongate shell; the elongate shells each having both a distal end and a proximal end;
a first spacing component, the pair of elongate shells each secured by the first spacing component, the first spacing component having a distal surface and a proximal surface; and
a second spacing component, at least one of the elongate shells secured by the second spacing component, the*

*second spacing component spaced apart from the first spacing component;
wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a closed bottom end and an open upper end, the first spacing component positioned at the open upper end.*

Thus, claim 37 defines an ice fishing tackle storage apparatus, where the ice fishing tackle storage apparatus is "positioned in a container." Claim 37 further requires that the container have a closed bottom end. The Wolniak patent does not disclose such a container with a closed bottom end, since the Wolniak patent instead discloses holes 23 through the bottom of the Wolniak fishing tackle box.

Finally, claim 38 of the above-identified application that depends from claim 37 reads as follows:

38. The ice fishing tackle storage apparatus of claim 37, wherein the proximal end of at least one of the elongate shells is flush with the proximal surface of the first spacing component.

Claim 38 thus requires that the proximal end of at least one of the elongate shells be flush with the proximal surface of the first spacing component. The Wolniak patent does not disclose this feature that is required by claim 38 since the Wolniak patent discloses that each and every one of the proximal end of the tubes 30 extend well above the uppermost spacing component of the Wolniak tackle box.

The Wolniak patent does not disclose each and every feature required by claims 10, 14, 15, 30-34, or 37-38. Therefore, the Wolniak patent does not anticipate any of claims 10, 14, 15, 30-34, or 37-38. Claims 10, 14, 15, 30-34, and 37-38 are therefore believed allowable. Likewise, claims 11-13 and 17-18 each depend from allowable claim 10 and are therefore also believed allowable. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 10-15, 17-18, 30-34, and 37-38 under 35 U.S.C. §102(b) based upon the Wolniak patent and that claims 10-15, 17-18, 30-34, and 37-38 be allowed.

Claim Rejections Under 35 U.S.C. §102(b) Based Upon The McEwen Patent.

In the Office Action, the Examiner rejected claims 19, 21-23, 39, and 41 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,131,179 to McEwen (subsequently referred to "McEwen patent"). In support of this rejection, the Examiner alleged:

The patent to McEwen shows an ice fishing tackle storage apparatus having a plurality of elongate shells 16 having an elongate interior cavity, a spacing structure 20, 20 secured to the shells and a plurality of legs 40, 42 attached to the shells. McEwen shows a container 10. McEwen shows the elongate shells capable of securing ice fishing tackle therein. The spacing structure 20, 20 is effective to maintain two or more of the elongate shells in predetermined relation with each other proximate the spacing structure. The elongate shells are capable of serving as legs that will stably support the apparatus on a surface when the two elongate shells are positioned in contact with the surface as shown in Fig. 8.

Despite the Examiner's comments, the McEwen patent does not disclose each and every feature required by claims 19, 21-23, 39, and 41. Consequently, the McEwen patent does not anticipate any of claims 19, 21-23, 39, or 41.

Claim 19 of the above-identified application reads as follows:

19. *An ice fishing tackle storage apparatus, the apparatus comprising:*

a plurality of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity, and ice fishing tackle capable of being positioned within the elongate cavities of the elongate shells;

a spacing structure, the elongate shells secured by the spacing structure,, the spacing structure effective to maintain two or more of the elongate shells in predetermined relation to each other, proximate the spacing structure; and

wherein at least two of the elongate shells are capable of serving as legs that will stably support the apparatus on a surface when the at least two elongate shells are positioned in contact with the surface, the spacing structure effective to prevent slippage of the at least

two elongate shells with respect to the spacing structure.

Claim 19 thus requires a plurality of elongate shells that each have interior surfaces defining elongate cavities. Ice fishing tackle is capable of being positioned within the elongate cavities. A spacing structure is provided to secure two or more of the elongate shells in predetermined relations to each other, proximate the spacing structure. According to claim 19, "at least two of the elongate shells are capable of serving as legs that will stably support **the apparatus** on a surface when the at least two elongate shells are positioned in contact with the surface." (Emphasis added). Thus, at least two of the elongate shells are capable of serving as legs that will stably support the apparatus that includes the plurality of shell and the spacing structure.

With regard to the McEwen patent, the Examiner relies upon Figure 8 as allegedly disclosing elongate shells that "are capable of serving as legs that will stably support the apparatus on a surface when the two elongate shells are positioned in contact with the surface as shown in Fig. 8." While Figure 8 does show that a minor portion of the periphery of one end of one of the tubes 16 is in contact with the ground, this mere disclosure of the contact between this minor portion of the tube 16 with the ground does not establish anything about the ability of the tube 16, in the combination disclosed in Figure 8, to stably support the entire apparatus that includes the container 10, the legs 40, the tube 16, among other components.

Indeed, in relation to the disclosure in Figure 8, the McEwen patent discloses that the tubes 16, 18 by virtue of their minor contact with the ground, are not responsible for the stability of the McEwen apparatus. Instead, the McEwen patent discloses that the bucket 10 is filled with water. (Col. 4, lines 26-27). The McEwen patent discloses that this filling of the bucket with water is responsible for steadying the apparatus, including the tubes 16 and 18. (Col. 4, lines 42-44 and Figure 8). The McEwen patent discloses nothing whatsoever about the tubes 16, 18 supporting the overall apparatus. Indeed, legs 40, 42 are explicitly added for purposes of supporting the tubes 16, 18. This further demonstrates the tubes 16, 18 do not support the overall apparatus of the McEwen

patent, such as that disclosed in Figure 8. Mere contact of a minor portion of the tubes 16, 18 with the ground does not necessarily demonstrate support of the apparatus by the tubes 16, 18.

Nonetheless, despite the explicit disclosure in the McEwen patent that the filling of the bucket of water is responsible for steadying the apparatus, including the tubes 16 and 18, and the foregoing comments of the prior three paragraphs that were submitted in response to the prior Office Action, the Examiner, in the present Office Action, continued to make the groundless allegation that the minor portion of the tube 16 from Fig. 8 will stably support the overall apparatus:

As to McEwen as shown in Fig. 8, the tube 16 has part of the bottom portion in contact with the ground and can hence are capable of serving as legs that will stably support the apparatus on a surface when the two elongate shells are positioned in contact with the surface.

Once again, this is merely a groundless allegation by the Examiner that is not supported in fact by the McEwen patent. Instead, the McEwen patent, among other things, discloses that filling of the bucket of water is responsible for steadying the apparatus, including the tubes 16 and 18. (Col. 4, lines 42-44 and Fig. 8). There is nothing whatsoever in the McEwen patent that would support the Examiner's allegation that the minor contact between the tubes 16, 18 and the ground surface would allow the tubes 16, 18 to stably support the overall McEwen apparatus. This is merely an allegation of the Examiner without any basis in fact.

Applicant also notes the Examiner characterizes the spacing structure of the McEwen patent as sleeves 20, 20. In fact, the spacing structure of the McEwen devices include every component shown in the figures, other than the tubes 16, 18. Absent these other components, including the handle 12, the nut and bolt arrangement 38, the bucket 10, the sleeve 30, 32, the elastic cords 34, 36, the sleeves 20, 22, the leg 40, 42, etc., the tubes would not be maintained in predetermined relation to each other and would not be prevented from slipping with respect to the spacing structure. All of the components beyond the tubes 16, 18 constitute the spacing structure, albeit a fairly complicated spacing structure, of the McEwen patent.

Thus, the legs 40, 42 in combination with the water placed in the bucket 10, are vitally necessary for support of the apparatus disclosed in the McEwen patent. (Col. 2, line 55, through Col. 3, line 5). Clearly, mere contact between a small part of the tube 16, 18 with the ground plays only a minor role and is insufficient to stably support the overall apparatus. Even absent this disclosed contact of the tubes 16, 18, the water in the bucket would clearly support the overall apparatus in stable fashion. Furthermore, absent the contact between the tube 16, 18 and the ground, the remaining components of the apparatus in the McEwen patent, including the nut and bolt mechanism 38, would still constitute the support mechanism of the McEwen apparatus and would still maintain the tubes 16, 18 in stable fashion to support a fishing rod inserted within the tube 16, 18.

As explained above, the McEwen patent does not disclose each and every feature required by claim 19. Claim 21 of the above-identified application depends from claim 19 and reads as follows:

21. The ice fishing tackle storage apparatus of claim 19 wherein the elongate shells each have a longitudinal axis, a length of at least one of the elongate shells selectively and reversibly adjustable along the longitudinal axis of the at least one elongate shell.

Claim 21 thus requires that a length of at least one of the elongate shells originally defined in claim 19 be selectively and reversibly adjustable along the longitudinal axis of the at least one elongate shell. The McEwen patent does not disclose any ability to extend the length of either the tube 16 or the tube 18. The Examiner implicitly recognizes this, since the Examiner did not point to any aspect in the McEwen patent covering any such length adjustment ability. Thus, the McEwen patent does not disclose each and every feature that is required by claim 21.

Claim 23 of the above-identified application reads as follows:

23. An ice fishing tackle storage apparatus, the apparatus comprising:

a plurality of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity, and ice fishing tackle capable of being positioned within the elongate cavities of the elongate shells;

a spacing structure, the elongate shells secured by the spacing structure, the spacing structure effective to maintain at least two of the elongate shells in predetermined relation to each other, proximate the spacing structure; and
a plurality of legs that are capable of supporting the apparatus on a surface when the legs are positioned in contact with the surface, the plurality of legs attached to the spacing structure or to any of the elongate shells.

Claim 23 thus requires a plurality of legs that are capable of supporting the apparatus, where the apparatus that is capable of being supported comprises the elongate shells and the spacing structure, on a surface when the legs are positioned in contact with the surface.

As indicated above, there is no disclosure in the McEwen apparatus about the legs 40, 42 or the tubes 16, 18 having the capability of supporting the overall apparatus (tubes and spacing structure) of the McEwen apparatus. Instead, as exemplified by the need to fill the bucket 10 with water, it is clear the bucket, as opposed to the legs 40, 42 or the tubes 20 supports the overall apparatus that includes the bucket 10. Absent the water in the bucket 10, the McEwen patent clearly indicates that insufficient stability would exist, even with the use of the legs 40, 42. Thus, the McEwen patent fails to disclose each and every feature that is required by claim 23.

Claim 39 of the above-identified application reads as follows:

39. The ice fishing tackle storage apparatus of claim 19 wherein the spacing structure is free of contact with the surface.

Claim 39, in turn, depends from claim 19 that reads as follows:

19. An ice fishing tackle storage apparatus, the apparatus comprising:

a plurality of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity, and ice fishing tackle capable of being positioned within the elongate cavities of the elongate shells;
a spacing structure, the elongate shells secured by the spacing structure,, the spacing structure effective to maintain two or more of the elongate shells in

predetermined relation to each other, proximate the spacing structure; and wherein at least two of the elongate shells are capable of serving as legs that will stably support the apparatus on a surface when the at least two elongate shells are positioned in contact with the surface, the spacing structure effective to prevent slippage of the at least two elongate shells with respect to the spacing structure.

As explained above in connection with the argument regarding the Examiner's rejection of claim 19 based upon the McEwen patent, the legs 40, 42 of the McEwen device constitute part of the spacing structure of the McEwen patent. Clearly, from Fig. 2 and Fig. 8 of the McEwen patent, the legs 40, 42, and thereby the spacing structure of the McEwen device, is in contact with the surface. Consequently, the McEwen patent does not disclose each and every detail that is required by claim 39. Similar comments apply with regard to claim 41 that similarly specifies: "the spacing structure is free of contact with the surface."

As indicated above, the McEwen patent fails to disclose all of the features required by any of claims 19, 21, 23, 39, or 41. Claims 19, 21, 23, 39 and 41 are therefore believed allowable. Claim 22 depends from allowable claim 19 and is therefore also believed allowable. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of claims 19, 21-23, 39, and 41 under 35 U.S.C. §102(b) based upon the McEwen patent and that claims 19, 21-23, 39, and 41 be allowed.

Claim Rejections Under 35 U.S.C. §103(a) Based On The Thibodeaux And Morin Patents.

In the Office Action, the Examiner rejected claim 3 under 35 U.S.C. §103 as allegedly being unpatentable over the Thibodeaux patent as applied to claim 1, and further in view of U.S. Patent No. 4,311,262 to Morin (subsequently referred to as the "Morin patent"). In support of this rejection, the Examiner stated:

The patent to Thibodeaux shows an ice fishing tackle storage device as discussed above and show one template which is the top surface.

Morin shows an ice fishing tackle storage apparatus having a first 14 and second 24 template to hold rod 12. In reference to claim 3, it would have been obvious to employ a second template in Thibodeaux as shown by Morin for the purpose of supporting the fishing rod in two places.

Despite the Examiner's comments, the Thibodeaux patent and the Morin patent, either separately or in any combination do not teach, suggest, disclose, or make obvious the invention of the above-identified application, as defined in claim 3.

Claim 3 depends from claim 2, which in turn depends from claim 1. Claim 3 reads as follows:

3. (Amended) The ice fishing tackle storage apparatus of claim 2 wherein the spacing structure further comprises a second template, the second template comprising one or more interior surfaces, the one or more interior surfaces defining at least one aperture that extends through the second template, one of the extendable elongate shells passing through the aperture of the second template.

Claim 3 thus further defines the spacing structure of claim 2 in terms of a second template in addition to the first template that is defined in claim 2. Claim 3 requires that one of the extendable elongate shells pass through the aperture of the second template.

The Examiner characterizes the top portion 5 of the Thibodeaux fisherman's cooler as a first template. The Morin patent discloses a lower horizontal member 24 with a plurality of openings 25 and an upper horizontal member 14 with a plurality of openings 15, where the openings 15 and 25 are relatively vertically aligned with one another. (Col. 2, line 62, through col. 3, line 4). The Examiner seeks to add another template in addition to the upper portion 5 for purposes of supporting the cup members 12. However, there is no suggestion from either the Thibodeaux patent or the Morin patent about any need or motivation to so modify the Thibodeaux fisherman's cooler. Indeed, as explained above, the nested cup members 12 of varying diameter rest fully within the bore of the fishing rod holder 10 in the upper portion 5. This negates any need for an additional support template, since each nest of cup members 12 is already fully supported by individual bores in the upper portion 5.

As an additional comment, it is noted that the bore 5, as explained above in relation to the Examiner's §102 rejection, is not disclosed as extending fully through the upper portion 5. Instead, the bore 5 must be closed ended and therefore clearly has a bottom that supports the cup member 12 with the largest diameter which in turn supports the top with the next smaller diameter, etc., etc. This characterization of the bore as being a closed end bore that does not extend fully through the upper portion 5 is clearly appropriate, since having bores that extended fully through the upper portion 5 would hinder the ability of the cooler to keep things held within the cooler cool. Therefore, adding the pair of templates 14, 24 with the holes 15, 25 extending therethrough in place of the apparent closed end bore of the upper portion 5 would effectively open up the cooler to atmosphere and prevent the closed end bore from serving its important and intended function of helping to keep goods within the cooler cool.

Thus, there is clearly no motivation or suggestion in either the Thibodeaux patent or the Morin patent for substituting the templates 14, 24 with the through-bores 15, 25 in place of the upper portion 5 of the Thibodeaux patent with the closed-end bores. Consequently, it is clear the alleged combination of the Examiner based upon the Thibodeaux patent and the Morin patent does not teach, suggest, disclose, or render obvious the invention of the above-identified application, as defined in claim 3.

The Thibodeaux patent, in combination with the Morin patent does not render claim 3 obvious. Claim 3 is therefore believed allowable. As indicated elsewhere, independent claim 1 is separately believed allowable. Claim 3 is therefore also believed allowable for an additional reason, since claim 3 depends from allowable claim 1. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 3 under 35 U.S.C. §103 based upon the Thibodeaux and Morin patents and that claim 3 be allowed.

Claim Rejection Under 35 U.S.C. §103 Based upon the Thibodeaux Patent.

In the Office Action, the Examiner rejected claims 27-29 under 35 U.S.C. §103 as allegedly being unpatentable over the Thibodeaux patent. In support of this rejection, the Examiner stated:

The patent to Thibodeaux shows a fishing storage apparatus as discussed above. Thibodeaux shows holding fishing rods, but it would have been obvious to hold other related fishing tackle such as tip-ups or ice fishing both pre-rigged or un-rigged since the function is the same. In reference to claim 38, Thibodeaux shows a stop 13-14. It would have been obvious to employ an adjustable stop. See *In re Stevens*, 101 USPQ 284. In reference to claim 39, Thibodeaux does not show a rounded surface at the proximal end of the elongate shell. However, it would have been obvious to a [sic] employ a rounded surface for the purpose for easier insertion of the fishing tackle. The examiner takes Official Notice that rounded surfaces are old and well known in fishing tackle storage devices.

Despite the Examiner's comments, the Thibodeaux patent does not teach, suggest, disclose, or render obvious the invention of the above-identified application, as defined in claims 27-29.

Claim 28 of the above-identified application reads as follows:

28. The ice fishing tackle storage apparatus of claim 1 wherein each extendable elongate shell comprises an adjustable stop, the adjustable stops effective to hold each extendable elongate shell at a selected level of extension.

Claim 28 thus requires adjustable stops for each extendable elongate shell. As previously explained in connection with the Examiner's rejection of claim 1 under 35 U.S.C. §102 based upon the Thibodeaux patent, the Thibodeaux patent does not disclose any such extendable elongate shells, but instead merely discloses nesting cups. Claim 28 further requires adjustable stops the are "effective to hold each extendable elongate shell at a selected level of extension." The Examiner alleges the elements 13 and 14 of the Thibodeaux patent constitute stops and that it would be obvious to supply adjustable stops. However, as previously explained, the Thibodeaux patent describes the elements 13 and 14 as a longitudinal U-shape groove 13 and a U-shape protrusion 14. The Thibodeaux patent goes on to state that the groove 13 and protrusion 14 prevent "each cup member from rotating

relative to the others.” (Col. 2, lines 39-46). Thus, while these elements 13, 14 may act as radial stops that prevent rotation of cups members relative to each other, these elements 13-14 certainly do not act as stops or adjustable stops that could “hold each extendable elongate still at a selected level of extension,” as required by claim 28.

Next, claim 29 reads as follows:

29. The ice fishing tackle storage apparatus of claim 1 wherein each extendable elongate shell has a proximal end and a distal end, the proximal end of each extendable elongate shell having a rounded surface that is adequate to minimize abrasion of any fishing line that rests against the proximal end of any extendable elongate shell.

The Thibodeaux patent does specify that the cup members 12 are used to hold fishing rods. However, as depicted in Fig. 1 of the Thibodeaux patent, the handles of the fishing rods are to be positioned in the cup members 12 that constitute part of the fishing rod holders 10. As previously explained, the cup members 12 have bottoms and therefore the handles of the fishing rods depicted in Fig. 1 do not extend through the cups, but instead are merely held within the cup members 12. With this positioning, one of ordinary skill in the art of fishing equipment would readily understand that line extends from the depicted reels toward the tip of the fishing rods and away from the cup members 12. Thus, no fishing line would be in contact with the cup members 12 of the Thibodeaux fishing cooler.

Claim 29 specifies that each extendable elongate shell, which is not taught, suggested, or disclosed by the Thibodeaux patent, has a rounded surface to minimize fishing line abrasion. The only conceivable way that fishing line could come into contact with the cup members 12 in a manner that could potentially cause abrasion would be if the tips of the fishing rods were somehow allowed to pass through the cup members 12 and into the cooler. However, the cup members 12, as argued at length above, constitute elongate shells and have bottoms. These bottoms would prevent the tips of the fishing rods from extending through the cups and into the cooler. Consequently, the cup members 12, and the associated bottoms of the cups, would not allow positioning of ice fishing rods in a manner that would allow fishing line to come into contact with the cup members 12. Therefore,

there is no motivation whatsoever for rounding the tops of the cup members 12, since, the cup members 12 are not adapted to storing ice rods in a manner that would allow fishing line to come into contact with the tops of the cup members 12. Therefore, despite the Examiner's contentions to the contrary, it would not be obvious to provide rounded surfaces on the cup members 12 of the Thibodeaux fishing cooler.

Based upon the foregoing comments, claims 28 and 29 are believed allowable. Claim 27 is also believed allowable, since claim 27 depends from allowable claim 1. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 27-29 under 35 U.S.C. §103 based upon the Thibodeaux patent and that claims 27-29 be allowed.

Claim Rejection Under 35 U.S.C. §103 Based Upon the Wolniak and Thibodeaux Patent.

In the Office Action, the Examiner rejected claims 1, 4-6 and 16 under 35 U.S.C. §103 as allegedly being unpatentable over the Wolniak patent in view of the Thibodeaux patent. In support of this rejection, the Examiner stated:

The patent to Wolniak shows an ice fishing storage device for fishing tackle as discussed above. Wolniak does not show the elongate shells having an adjustable length, but does show tubes of different lengths. Thibodeaux shows adjustable length tubes 12-14. In reference to claims 1, 16, it would have been obvious to provide Wolniak with at least one adjustable length tube as shown by Thibodeaux for the purpose of storing fishing tackle of different lengths in one elongate shell. In reference to claims 4, 5, Wolniak shows a top wall 26 with apertures 22 which also can be considered sockets.

Despite the Examiner's comments, the Wolniak patent and the Thibodeaux patent, either separately or in combination, do not teach, suggest, disclose, or render obvious the invention of the above-identified application, as defined in claims 1, 4-6, and 16.

Claim 1 of the above-identified application reads as follows:

1. *An ice fishing tackle storage apparatus, the apparatus comprising:*

a pair of extendable elongate shells, the extendable elongate shells having an interior surface that defines an

*elongate cavity, the pair of extendable elongate shells located adjacent to each other, and ice fishing tackle capable of being positioned within the elongate cavity of each extendable elongate shell; and
a spacing structure, the pair of extendable elongate shells each secured by the spacing structure, the spacing structure effective to maintain the pair of extendable elongate shells in predetermined relation to each other, proximate the spacing structure.*

Claim 1 thus defines an ice fishing tackle storage apparatus that comprises a pair of extendable elongate shells. The shells have an interior surface that defines elongate cavities within each shell and ice fishing tackle is capable of being positioned within each elongate cavity of each extendable elongate shell.

The Examiner characterizes the Thibodeaux patent as disclosing "adjustable length tubes 12-14." As explained above, the Thibodeaux patent does not in fact disclose any such "adjustable length tubes 12-14." Instead, the Thibodeaux patent discloses nesting cup members 12 of varying diameter. The Examiner alleges it would be obvious to substitute the alleged "adjustable length tubes 12-14" in the Wolniak patent "for the purpose of storing fishing tackle of different lengths in one elongate shell." However, substituting the nested cup members 12 in place of the tubes 30 of the Wolniak patent would not yield an adjustable length tube, but would instead yield the set of nested cups, where each cup would still have the bottom and an adjustable length cavity would therefore not exist. The nested set of cup members 12 from the Wolniak patent, even if inserted in place of the tubes 30 of the Wolniak tackle box, would therefore not collectively define an elongate cavity, as required by claim 1. Furthermore, the nested set of cup members 12, even if inserted in place of the tubes 30 of the Wolniak tackle box, would not constitute the extendable elongate shells, that are required by claim 1.

Furthermore, even if the nested set of cup members 12 were disclosed as actually being tubes, instead of the nested cups that are actually disclosed, incorporation of such an adjustable length set of tubes in place of the individual tubes 30 disclosed in the Wolniak patent would destroy important and intended functions of the Wolniak patent. Specifically, as previously discussed, the

Wolniak patent discloses cover portions 20a and 20b that are disclosed as confronting the open upper ends of the tubes 30 to help keep fishing lures in the cups 30 in the event the tackle box of the Wolniak patent is overturned. Any incorporation of extendable length tubes in place of the fixed length tubes 30 of the Wolniak patent would either prevent the covers 20 from being closed or would prevent the covers 20 from confronting the open ends of the tubes. Either way, such incorporation of extendable tubes in the Wolniak tackle box would destroy an important and intended function of the Wolniak patent, namely, either the ability to close the covers 20 or the ability to prevent lures from tumbling out of the tubes 30 upon disruption of the Wolniak tackle box.

The foregoing comments clearly demonstrate that modification of the Wolniak tackle box in accordance with the Examiner's suggestion using the Thibodeaux set of nested cups is neither taught, suggested, disclosed or obvious. Thus, the Wolniak patent and the Thibodeaux patent, either separately or in combination, do not teach, suggest, disclose, or render obvious the invention of the above-identified application, as defined in claim 1. Consequently, claim 1 is believed allowable over this §103 rejection of the Examiner.

Next, we consider claim 4. Claim 4 depends from independent claim 1 and reads as follows:

4. (Amended) The ice fishing tackle storage apparatus of claim 1 wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a wall, the wall comprising interior surfaces that define a plurality of recesses in the wall or a plurality of apertures through the wall, the spacing structure comprising the recesses or the apertures of the wall, each extendable elongate shell passing through the apertures of the wall or positioned in the recesses of the wall.

Claim 4 thus requires a container with a wall, where the wall comprises "interior surfaces that define a plurality of recesses in the wall or a plurality of apertures through the wall," where "each extendable elongate shell either passes through the wall apertures or is positioned in the wall recesses."

The Examiner alleges that "Wolniak shows a top wall 26 with apertures 22 which also can be considered sockets." The Examiner's characterization of the element 26 as a "top wall" of the Wolniak container is erroneous. The container in the Wolniak patent is disclosed as the element 10, with side walls 11, end walls 12, and a bottom panel 13. (Col. 3, lines 10-14; and Figure 1). The elements 21, 26 are disclosed in the Wolniak patent as being panels of floatation material that are added to the container, and preferably secured to the container, but are not part of the container itself. Instead, the proper focus of the Examiner would have been upon the side walls 11, the ends walls 12, or the bottom panel 13 of the container 10. However, none of the side walls 11, ends walls 12, or bottom panel 13 include any such apertures or recesses where the elongate shells pass through the apertures or are positioned in the recesses.

Thus, the Examiner's combination of the Wolniak patent in view of the Thibodeaux patent does not teach, suggest, disclose, or make obvious the recesses or apertures that are required by claim 4. Furthermore, Applicant notes that claim 4 requires the extendable elongate shell, as previously discussed in relation to claim 1. The Examiner's combination of the Thibodeaux patent with the Wolniak patent does not teach, suggest, disclose, or render obvious the extendable elongate shell, as additionally required by claim 4.

Consequently, the Wolniak patent in view of the Thibodeaux patent does not teach, suggest, disclose, or make obvious the invention of the above-identified application, as defined in claim 4. Therefore, claim 4 is believed allowable.

Next, claim 5, which depends from independent claim 1, reads as follows:

5. *The ice fishing tackle storage apparatus of claim 1 wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a wall, the spacing structure comprising a plurality of sockets, the sockets attached to the wall of the container, and the extendable elongate shells positioned in the socket.*

Claim 5 thus requires sockets that are attached to a wall of the container. As noted above, the Examiner equates the apertures 22 in the floatation material panel 26 with sockets. This characterization of the Examiner is erroneous on at least a couple of grounds. First, the apertures

of the floatation material are not sockets, but are instead apertures. These apertures are positioned well above any other related surfaces, so there is not a combination of a surface abutting the aperture that would allow the apertures to function as a socket. Furthermore, claim 5 requires that the socket be attached to a wall. Here, the apertures are not attached to a wall; instead, it is the template or floatation material 26 that is attached to a wall of the container in the Wolniak device. Furthermore, we again note that the Wolniak patent, as modified to include the nested set of cup members 12 from the Thibodeaux patent, does not include the extendable shells required by claim 5.

Thus, the Wolniak patent and the Thibodeaux patent, despite the Examiner's suggestion to the contrary, do not teach, suggest, disclose, or render obvious the invention of the above-identified application, as defined in claim 5. Therefore, claim 5 is believed to be allowable.

Claim 16 depends from allowable claim 10 and reads as follows:

16. The ice fishing tackle storage apparatus of claim 10 wherein the elongate shells each have a longitudinal axis, a length of at least one of the elongate shells selectively and reversibly adjustable along the longitudinal axis of the at least one elongate shell.

Claim 16 thus requires an elongate shell with a length that is selectively and reversibly adjustable along the longitudinal axis of the elongate shell. A combination of the nested set of cup members 12 from the Thibodeaux patent in place of the tubes 30 of the Wolniak patent would not yield such a selectively and reversibly adjustable length elongate shell, for reasons analogous to those previously discussed in relation to claim 1 above. Thus, the Wolniak patent, even if modified using the Thibodeaux patent in accordance with the Examiner's suggestion, would not equal the invention of the above-identified application, as defined in claim 16. From this alone, it is clear the Wolniak patent in view of the Thibodeaux patent do not teach, suggest, disclose, or make obvious the invention of the above-identified application as defined in claim 16.

Claims 1, 4-5, and 16 are believed allowable for the reasons provided above. Claim 6 is also believed allowable, since claim 6 depends from allowable claim 1. Claims 4 and 5 are also believed allowable for an additional reason, since claims 4 and 5 each depend from allowable claim 1, as well. As discussed elsewhere, claim 10 is also believed allowable. Claim 16 is therefore also

believed allowable for an additional reason, since claim 16 depends from allowable claim 10. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of claims 1, 4-6, and 16 under 35 U.S.C. §103 based upon the Wolniak patent and the Thibodeaux patent and that claims 1, 4-6, and 16 be allowed.

Claim Rejection Under 35 U.S.C. §103(a) Based Upon The McEwen Patent.

In the Office Action, the Examiner rejected claim 20 under 35 U.S.C. §103(a) as allegedly being unpatentable over the McEwen patent. In support of this rejection, the Examiner alleged:

The patent to McEwen shows a fishing pole holder and storage container that functions as an ice fishing storage apparatus as discussed above. In reference to claim 20, McEwen does not disclose positioning the ice fishing storage apparatus in a container. However, it would have been obvious to store the elongate shells and the spacing structure in the container when not in use for the purpose of minimizing storage space.

Despite the Examiner's comments, the McEwen patent does not teach, suggest, disclose, or make obvious the invention of the above-identified application, as defined in claim 20.

Claim 20 depends from independent claim 19 and reads as follows:

20. The ice fishing tackle storage apparatus of claim 19 wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a wall, the wall having a proximal end and a distal end and the wall having an interior surface, the spacing structure either in contact with the proximal end of the wall, in contact with the interior surface of the wall, or in contact with both the proximal end of the wall and the interior surface of the wall.

Claim 20 calls for the ice fishing tackle storage apparatus of claim 19 to be positioned in a container, where the container has a wall with a proximal end and a distal end along with an interior surface. Claim 20 additionally requires that the spacing structure previously defined in claim 19 be in contact with the proximal end of the wall, the interior surface of the wall, or both the proximal end and the interior surface of the wall of the container.

The Examiner simply alleges that it would be obvious to store the tubes and the spacing structure of the McEwen device in the container "when not in use for the purpose of minimizing storage space." The Examiner's comments seemingly disregard the spacing structure contact requirements with the wall that are defined in claim 20. Apparently, the Examiner is suggesting that the tubes, sleeves 20, 18, the legs 40, 42, and the elastic sleeves 34, 6 be disassembled and placed in the container 10.

However, there is no suggestion to somehow position the support structure components thereby disassembled in contact with the walls of the container 10. Clearly, the disassembled form of the McEwen apparatus would not equal the details required by claim 20. Certainly, it would not be obvious to force disassembled portions of the support structure to be in contact with the walls of the McEwen portable fish bucket. Indeed, the McEwen patent does not suggest any such disassembly. This is instead apparently only the suggestion of the Examiner. The McEwen patent instead suggests only minor disassembly with none of the components being stored in the container 10. (Col. 2, lines 43-54; and Figure 1). Thus, the McEwen patent actually teaches away from the Examiner's suggestion of complete disassembly with component storage in the bucket 10.

Based upon the foregoing comments, it is clear the McEwen patent does not teach, suggest, disclose, or render obvious the invention of the above-identified application, as defined in claim 20. Therefore, Applicant believes claim 20 is allowable.

Claim 20 is believed allowable for the reasons provided above. As stated elsewhere, claim 19 is also believed allowable. Therefore, claim 20 is believed allowable for an additional reason, since claim 20 depends from allowable claim 19. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 20 under 35 U.S.C. §103 based upon the McEwen patent and that claim 20 be allowed.

Claim Rejections Under 35 U.S.C. §103(a) Based Upon the Wolniak Patent

In the Office Action, the Examiner rejected claims 35-36 under 35 U.S.C. §103(a) as allegedly being unpatentable over the Wolniak patent. In support of this rejection, the Examiner alleged:

The patent to Wolniak shows a fishing tackle storage system as discussed above. In reference to claim 35, it is not clear if Wolniak can store an entire ice fishing tip-up within the chamber, but it would have been obvious to size the chamber and to store whatever type of and size of fishing tackle desired such as a tip-up so the tip-up can be transported safely to the fishing location. In reference to claim 36, Wolniak does not show a rounded surface on the proximal end of the elongate shell, but it would have been obvious to employ a rounded surface for the purpose of easier insertion of the tackle into the shell. As stated above, the Examiner takes Official Notice that rounded surfaces are old and well known on fishing tackle storage devices.

Despite the Examiner's comments, the Wolniak patent does not teach, suggest, disclose, or make obvious the invention of the above-identified application, as defined in claims 35 and 36.

Claim 35 depends from independent claim 34 and reads as follows:

35. *The ice fishing tackle storage system of claim 34 wherein the ice-fishing tip-up is capable of being entirely within the chamber.*

As indicated above in connection with the Examiner's rejection of independent claim 34 based upon the Wolniak patent under 35 U.S.C. §102(b), the Wolniak patent does not even disclose the chamber that is defined in claim 35. Furthermore, there is nothing in the Wolniak patent that teaches or suggests including such a chamber. The Examiner simply concludes that such a chamber exists. This must be an oversight on the Examiner's part that fails to consider the chamber defining details of claim 34. Nonetheless, it is clear the Wolniak patent does not teach, suggest, disclose, or make obvious chamber that is required by claim 35 or, for that matter, sizing of the chamber that would allow an ice fishing tip-up to be entirely within the chamber.

Next, claim 36 reads as follows:

36. *(Amended) An ice fishing tackle storage apparatus, the apparatus comprising:*

a pair of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity and ice fishing tackle capable of being positioned within the elongate cavity of each elongate shell; and
a first spacing component, the pair of elongate shells each secured by the first spacing component;
wherein each elongate shell has a proximal end and a distal end, the proximal end of each elongate shell having a rounded surface that is adequate to minimize abrasion of any fishing line that rests against the proximal end of any elongate shell.

Claim 36 thus requires the proximal end of each elongate shell have a rounded surface adequate to minimize fishing line abrasion.

The Examiner alleges that it would be obvious to employ a rounded surface on the tubes 30 of the Wolniak patent for purposes of "easier insertion of the tackle end of the shell." However, Applicant fails to see how rounding the surfaces of ends of the tubes 30 of the Wolniak patent would make it easier to insert tackle into the tubes 30. Certainly, the Wolniak patent only teaches use of the tubes 30 for storing lures, not fishing rods or tip-ups. There is simply no motivation from the Wolniak patent, based simply on this teaching of storing lures in the tubes 30, to round proximal ends of the tubes 30. Instead, this is simply an example of hindsight reconstruction by the Examiner merely for the purposes for attempting to force elements into a reference, where the elements are neither disclosed nor taught by the reference. Consequently, it is clear claim 36 is allowable over the Examiner's rejection of claim 36 based upon the Wolniak patent.

Claims 35 and 36 are each believed allowable. Claim 35 is believed allowable for an additional reason, since claim 35 depends from allowable claim 34. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 35 and 36 based upon the Wolniak patent under 35 U.S.C. §103(a) and that claims 35 and 36 be allowed.

Claim Rejections Under 35 U.S.C. §103(a) Based Upon the McEwen Patent and the Wolniak Patent

In the Office Action, the Examiner rejected claims 40 and 42 under 35 U.S.C. §103(a) as allegedly being unpatentable over the McEwen patent “as applied to claims 19 and 23 above, and further in view of “ the Wolniak patent. In support of this rejection, the Examiner stated:

The patents to McEwen and Wolniak show fishing tackle storage devices and have been discussed above. In reference to claims 40 and 42 it would have been obvious to provide McEwen with a template as shown by Wolniak for the purpose of storing fishing tackle in the container.

Despite the Examiner’s comments in support of this rejection, the McEwen patent and the Wolniak patent, either separately or in any combination, do not teach, suggest, disclose, or render obvious the invention of the above-identified application, as defined in claims 40 and 42.

Claim 40, which depends from independent claim 19, reads as follows:

40. The ice fishing tackle storage apparatus of claim 19 wherein the spacing structure comprises a template, the template comprising a plurality of interior surfaces, the interior surfaces defining a plurality of apertures that extend through the first template, at least one of the elongate shells passing through one of the apertures of the template.

Claim 40, by virtue of its dependence from claim 19, thus requires the template along with elongate shells that extend through the template.

The Examiner does not suggest that there is any teaching to move the tubes 30 from the Wolniak fishing lure storage box to the interior of the McEwen container. Therefore, even if the Examiner’s suggestion of moving the Wolniak template to the McEwen container is done, the result in combination would not equal the invention of the above-identified application as defined by claim 40, since the resulting combination structure would lack the elongate shells that also required by claim 40 to pass through the templates. Similar comments apply with regard to claim 42 that likewise requires at least one elongate shell passing through the template. Furthermore, moving the templates of the Wolniak patent into the McEwen container in accordance with the Examiner’s

suggestion would hinder an important and intended function of the McEwen fishing device, namely the storage of water in the McEwen container for purposes of stabilizing the container.

Indeed, even if the Examiner should later allege that it would be obvious to move both the templates and the tubes 30 from the Wolniak patent into the McEwen container, such a move is not taught by either the McEwen reference or by the Wolniak reference. First, such a move would destroy an important and intended function of the Wolniak patent of providing a fishing tackle box that allows ready access to fishing lures by fishermen, since the bucket of the McEwen reference is much deeper than the fishing tackle box of the Wolniak patent and would essentially bury the Wolniak tubes 30 deep in the McEwen bucket. On the other hand, such a transfer of the tubes 30 and templates from the Wolniak tackle box to the McEwen bucket would destroy an important and intended function of using the McEwen device for holding the fishing tackle outside of the container and would likewise inhibit or even destroy the ability to place water in the McEwen bucket for purposes of stabilizing the McEwen device.

Thus, claim 40 and 42 are each believed allowed. Claims 40 and 42 are also believed allowable, for an additional reason, since claim 40 depends from allowable claim 19 and since claim 42 depends from allowable claim 23. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of claims 40 and 42 under 35 U.S.C. §103(a) based upon the McEwen patent and the Wolniak patent and that claims 40 and 42 be allowed.

Claim Amendments By Applicant

Applicant has amended claims 14 and 36 as indicated above. This amendment of claim 14 merely rectifies a minor typographical error, while the amendment of claim 36 rectifies a minor antecedent basis issue. Neither the amendment of claim 14 nor the amendment of claim 36 was necessitated by a statutory patentability requirement. Likewise, the amendments to claim 14 and claim 36 do not narrow the scope of either claim 14 or 36 and do not narrow the scope of any individual element of either claim 14 or claim 36. Consideration and entry of these amendments to

claims 14 and 36 along with reconsideration and allowance of claims 14 and 36 is respectfully requested.

CONCLUSION

Claims 1-43 are each believed allowable. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of claims 1-42 and that claims 1-42 be allowed. Additionally, Applicant respectfully requests that the Examiner consider and allow claim 43. Finally, Applicant respectfully requests that the Examiner reconsider and withdraw the alleged constructive election of claim 43 and that the withdrawal of claim 43 from consideration in the above-identified application be reversed so that claim 43 is in fact considered in the above-identified application. Finally, Applicant respectfully requests that the Examiner reconsider and withdraw the objections to the specification and drawings stated above. The Examiner is invited to contact Applicant at the telephone number indicated below to discuss any aspect of this application and advance this application to allowance.

Respectfully submitted,

KINNEY & LANGE, P.A.

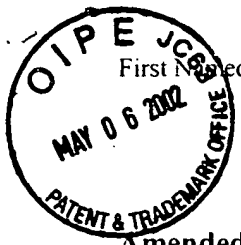
Date:

May 6, 2002

By

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First Named Inventor: Philip F. Fox

Application No.: 09/502,701

**APPENDIX A:
MARKED UP VERSION OF CLAIM AMENDMENTS**

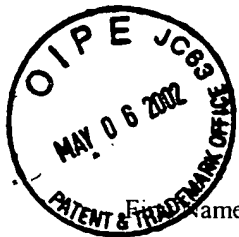
Amended Claims 14 and 36:

14. (Amended) The ice fishing tackle storage apparatus of claim 10 wherein the ice fishing tackle storage apparatus is positioned in a container, the container having a wall, the wall comprising [a] one or more interior surfaces that define a recess in the wall or an aperture through the wall, the second spacing component comprising the recess or the aperture, one of the elongate shells passing through the aperture of the wall or positioned in the recess of the wall.

36. (Amended) An ice fishing tackle storage apparatus, the apparatus comprising:

a pair of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity and ice fishing tackle capable of being positioned within the elongate cavity of each elongate shell; and a first spacing component, the pair of elongate shells each secured by the first spacing component;

wherein each [extendable] elongate shell has a proximal end and a distal end, the proximal end of each [extendable] elongate shell having a rounded surface that is adequate to minimize abrasion of any fishing line that rests against the proximal end of any [extendable] elongate shell.



Named Inventor: Philip F. Fox

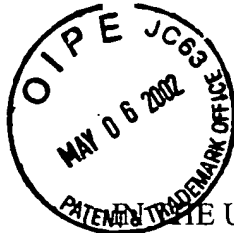
-B1-

Application No.: 09/502,701

**APPENDIX B:
MARKED UP VERSION OF SPECIFICATION AMENDMENTS**

Marked-up version of amended paragraph inserted at page 10, lines 12-25, in place of the paragraph originally located at page 10, lines 12-25:

In practice, when the female tube 34, instead of the adjustable tube 33, serves as the tube 30, [the] a pre-rigged tip-up 53a [(not shown)] or the tip of [the] a pre-rigged ice fishing rod 53b [(not shown) is] may be inserted into any of the female tubes 34 at the proximal end 40, as best depicted in Fig. 3. As used herein, the "tip" of the ice fishing rod 53b refers to the end of the ice fishing rod 53b opposite the handle end of the ice fishing rod 53b. Typically, one ferrule is located at the tip of the ice fishing rod 53b and any remaining ferrules are spaced along the rod from the tip back toward [the] a reel or [the] line windup 53c. The length B of the female tube 34 is adequate to permit the ice fishing rod 53b [(not shown)] to slide into the female tube 34 until the reel [(not shown)] or line windup [(not shown)] 53c that is attached to the ice fishing rod 53b comes into contact with the proximal end 40 of the female tube 34. Depending upon the positioning of the template 14 along the length B of the tubes 30, this may cause any particular one of the female tubes 34 to extend by a distance G above the template 14. Each of the tubes 30, such as the female tubes 34, may have a different length B or may have the same length B.



UNITED STATES PATENT AND TRADEMARK OFFICE

#7
5/14/02

First Named Inventor : Philip F. Fox Appln. No. : 09/502,701 Filed : February 11, 2000 Title : ICE FISHING TACKLE STORAGE APPARATUS Docket No. : F351.12-0001	Group Art Unit: 3643 Examiner: K. Rowan
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EXHIBIT A

Definition of "reel" from:

Merriam Webster's Collegiate Dictionary
Page 981, 10th ed. (Merriam-Webster, Incorporated 1993)



Merriam- Webster's Collegiate[®] Dictionary

TENTH EDITION

Merriam-Webster, Incorporated
Springfield, Massachusetts, U.S.A.



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Library of Congress Cataloging in Publication Data
Main entry under title:

Merriam-Webster's collegiate dictionary. — 10th ed.

p. cm.

Includes index.

ISBN 0-87779-708-0 (unindexed). — ISBN 0-87779-709-9 (indexed).

— ISBN 0-87779-710-2 (deluxe). — ISBN 0-87779-707-2 (laminated cover).

1. English language—Dictionaries. I. Merriam-Webster, Inc.

PE1628.M36 1993

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Abbrevi

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor	: Philip F. Fox	
Appln. No.	: 09/502,701	
Filed	: February 11, 2000	Group Art Unit: 3643
Title	: ICE FISHING TACKLE STORAGE APPARATUS	Examiner: K. Rowan
Docket No.	: F351.12-0001	

EXHIBIT B

Definition of "butt" from:

Merriam Webster's Collegiate Dictionary
Page 155, 10th ed. (Merriam-Webster, Incorporated 1993)

3 : a large quantity : LOT
 (a) [prob. fr. G. *bussell* to an to beat] (ca. 1877) : REPAIR
 an uncontrolled fire in a bush
 (1898) : a feudal-military
 above life
 u. removable cylindrical lining
 (2) used to limit the size of the
 side 2 : an electrically insulating
 conductor
 (try) (ca. 1939) : a long cotton
 patch pockets and a belt
 2
 erior class or group of its kind
 -bush leaguer n
 [modif. of obs. *Afr. bush*]
 (Afr. man) a : a member of
 thern Africa who traditionally
 Khoisan languages spoken by
 ly Austral : a person who lives
 tropical American pit viper
 venomous snake
 reddish to black pig (*Potamo-*
 d of sub-Saharan Africa and
 ong pointed ears, and a light
 nd back
 mall plane into remote areas
 stral : an outflow living in the
 yush-rang-rang (yig) n
 (1909) : a usu. loose-fitting
 y timouse (*Psaltirius mini-*
 underparts that occurs in sev-
 n separate species
 ck-formation fr. *bushwhacker*
 suddenly : ASSAULT ~ vi : to
 y chopping down bushes and
 c) 1 : full of or overgrown
 being thick and spreading ~
 s 'bu-shē-nas' n
 'bid-' n, often attrib (14c) 1
 2 : a : ROLE, FUNCTION (how
 rning — H. A. Overstreet) b
 n (what is your ~ here) c : a
 he ~ 3 : a : usu. commer-
 means of livelihood : TRADE
 ercial or sometimes an indus-
 the ~ district) c : usu. cor-
 ~ elsewhere) 4 : AFFAIR
 (~ as usual) 5 : CREATION
 is lighting a cigarette) by m
 here, reveal character, or ex-
 press 7 : a : personal concern
 ~ speaking to me that way
 effort and usu. the avoidance
 ~ b : maximum effort
 TONGUE-LASHING c : DOUBLE
 p. of pets
 STRY, TRAFFIC mean activity
 ibution of commodities, busi-
 ically designates the activities
 of commodities or in related
 ade imply the exchange and
 Y applies to the producing of
 ~ processing, usu. on a large
 id functioning of public car-
 dition work
 a program of studies in a col-
 ledge of business principles
 earing information (as name
 representative
 ionic activity usu. consisting
 n, or through which a thing's
 evolve)
 791) 1 : exhibiting qualities
 : SERIOUS, PURPOSEFUL
 man who transacts business
 persons active in business
 a businessman or business-
 consisting of matching coat and
 : a woman who transacts
 ie act of transporting by bus;
 hool outside their residential
 ice in that school
 scare to procure, gain, fr. Sp
 or who entertains esp. by
 vi
 IF *brozequin* (1503) 1 : a
 ie knee 2 : a : COTURNUS
 of ancient Greek drama
 fills a bus (~ of tourists)
 : a holiday spent in follow-
 occupation

bas'vā [perh. alter. of ME *bassen* to kiss] (1570) : KISS — *buss* vi
 bas'vā n [F. *buste*, fr. It. *busto*, fr. L. *bustum* (tomb)] (1645) 1 : a
 bust representation of the upper part of the human figure includ-
 ing head and neck and usu. part of the shoulders and breast 2 :
 upper part of the human torso between neck and waist; esp : the
 bust of a woman
 bust'ed also *bust*; bust-ing [alter. of *bust*] vi (1806) 1 : a
 bust or smash esp. with force; also : to make inoperative (~ed
 ~ b) : to bring an end to : BREAK UP (helped ~ trusts —
 ~ed) 2 : often used with up (better not try to ~ up his happy-
 ~ (Forbes) c : to ruin financially d : EXHAUST, WEAR OUT
 phrases like *bust one's butt* to describe making a strenuous ef-
 ~ TIME (branco ~ing) 3 : DEMOTE 4 slang a : ARREST (~ed
 ~ing guns — Saul Gottlieb) b : RAID (~ed the apartment) 5
 ~ SLUG ~ vi 1 : to go broke 2 : a : BURST (laughing fit to ~) b
 ~ BREAK DOWN 3 : to lose at cards by exceeding a limit (as the count
 ~ in blackjack) b : to fail to complete a straight or flush in poker
 ~ (1840) 1 : a : SPREE 2 : a hearty drinking session (a beer ~)
 ~ a complete failure : FLOP b : a business depression 3 : PUNCH
 ~ 4 slang a : a police raid b : ARREST 2
 ~ bust'ed ~ bas'vā n [alter. of *bust*] (1837) : BANKRUPT, BROKE (go ~)
 bust'ard 'bas-tard' n [ME, modif. of MF *bistarde*, fr. Olt. *bistarda*, fr.
bistarda, lit. slow bird] (15c) : any of a family (Otididae) of large
 chiefly terrestrial Old World and Australian game birds
 bust'ard 'bas-tard' n (1848) 1 : chiefly Austral. : a sudden violent wind
 coming from the south 2 : an unusually sturdy child b often
 ~ FELLOW ~ usu. used as a noun of address (hey ~, come here) 3
 ~ that breaks, breaks up, or eliminates something (crime ~) : as : a
 ~ law b [short for *brockbuster*] : a person who breaks horses 4 : a
 bust fall
 bust'ier 'bus-ē-ā, bas-ē-ā n [F. fr. *bustier*] (1979) : a tight-fitting
 strapless top worn as a brassiere or outer garment
 bust'le 'bus-səl vi bust-ling; bust-ling 'bus-līng, 'bus-sā- [prob. alter.
 of obs. *bustle* to prepare, freq. of *bust*, fr. ON *būsk* to prepare oneself]
 (1580) 1 : to move briskly and often ostentatiously 2 : to be busily
 ~ (1634) : noisy; energetic, and often obtrusive activity (the
 bustle and ~ of the big city)
 bust'le 'bus-lē n [origin unknown] (1786) : a pad or framework expanding and
 supporting the fullness and drapery of the back of a woman's skirt or
 dress; also : the drapery so supported
 bust-line 'bus-(lī)-n (1926) 1 : an arbitrary line encircling the
 fullest part of the bust 2 : body circumference at the bust
 bust-y 'bus-ē-ā adj bust-ier; -est (1944) : having a large bust
 bus-ul-fan 'byū-'sāl-fən n [butane + suf. -fany] (ca. 1958) : an antineo-
 plastic agent C₄H₁₀O₂ used in the treatment of chronic myelogenous
 leukemia
 busy 'bi-zē adj busi-er; -est [ME *bisy*, fr. OE *bisig*; akin to MD &
 MLG *bisch* busy] (bef. 12c) 1 : engaged in action : OCCUPIED b
 ~ing in use (found the telephone ~) 2 : full of activity : BUSTLING
 (a ~ airport) 3 : foolishly or intrusively active : MEDDLING 4 : full
 of distracting detail (a ~ design) — busi-ly 'bi-zē-lē adv — busy-
 ness 'bi-zē-nas' n
 syn: BUSY, INDUSTRIOUS, DILIGENT, ASSIDUOUS, SEDULOUS mean actively
 engaged or occupied. BUSY chiefly stresses activity as opposed to idlen-
 ess or leisure (too busy to spend time with the children). INDUSTRIOUS
 implies characteristic or habitual devotion to work (industrious em-
 ployees). DILIGENT suggests earnest application to some specific object
 or pursuit (very diligent in her pursuit of a degree). ASSIDUOUS stresses
 careful and unremitting application (assiduous practice). SEDULOUS
 implies painstaking and persevering application (a sedulous investiga-
 tion of the murder).
 busy'ed also *busy*; busy-ing vi (bef. 12c) : to make busy : OCCUPY ~ vi
 ~ BUSY (small boats busy to and fro — Quentin Crewe)
 busy-body 'bi-zē-, bi-zē- n (1526) : an officious or inquisitive person
 busy-work 'bi-zē-, bi-zē- n (1910) : work that usu. appears productive or of
 intrinsic value but actually only keeps one occupied
 but' (but' con) [ME, fr. OE *būtan*, prep. & con], outside, without,
 except; except that; akin to OHG *būzan* without, except; akin to OE *be*
 by, *ut* out — more at BY, OUT] (bef. 12c) 1 : except for the fact
 (would have protested ~ that he was afraid) b : THAT — used after a
 negative (there is no doubt ~ he won) c : without the concomitant
 that (it never rains ~ it pours) d : if not : UNLESS e : THAN (no
 sooner started ~ it stopped) — not often in formal use 2 : a : on the
 contrary : on the other hand : NOTWITHSTANDING — used to connect
 coordinate elements (he was called ~ he did not answer) (not peace ~
 a sword) b : YET (poor ~ proud) c : with the exception of — used
 before a word often taken to be the subject of a clause (none ~ the
 brave deserves the fair — John Dryden) — but what : that ~ not
 ~ used to indicate possibility or uncertainty (I don't know but what I will
 go)
 but prep (bef. 12c) 1 : a : with the exception of : BARRING (no one
 there ~ me) 2 : compare BUT 2c b : other than (this letter is nothing
 ~ an insult) 2 Scot : a : WITHOUT, LACKING b : OUTSIDE
 but'adv (12c) 1 : ONLY, MERELY (he is ~ a child) 2 Scot : OUTSIDE 3
 : to the contrary (who knows ~ that she may succeed) 4 : used as
 an intensive (get there ~ fast)
 but'pron (1556) : that not : who not (nobody ~ has his fault — Shak.)
 but'v [Sc but, adj. (outer)] (1724) Scot : the kitchen or living quarters
 of a 2-room cottage
 bu-ta-di-ene 'byū-tā-'dī-, -ēn, -dī- n [ISV *butane* + -di- + -ene] (1900)
 : a flammable gaseous open chain hydrocarbon C₄H₆ used in making
 synthetic rubbers
 bu-tane 'byū-tān n [ISV *butyric* + -ane] (1875) : either of two iso-
 meric flammable gaseous alkanes C₄H₁₀ obtained usu. from petroleum
 or natural gas and used as fuels
 bu-ta-nol 'byū-tā-'n-ōl, -ōl n (1894) : either of two flammable four-
 carbon alcohols C₄H₉OH derived from normal butane
 butch 'būch' adj [prob. fr. *Butch*, male nickname] (1941) 1 : very
 masculine in appearance or manner 2 : playing the male role in a
 homosexual relationship
 butcher 'bu-chor' n [ME *bocher*, fr. OF *bouchier*, fr. *bouc* he-goat,
 prob. of Celt. origin; akin to Mfr. *bocc* he-goat — more at BUTCH] (13c)
 1 : a : a person who slaughters animals or dresses their flesh b : a

dealer in meat 2 : one that kills ruthlessly or brutally 3 : one that
 bungles or botches 4 : a vendor esp. on trains or in theaters
 butcher'ed also *butcher*; butch-er-ing 'būch-īng, 'bū-chor- (1562) 1
 : to slaughter and dress for market (~ hogs) 2 : to kill in a barba-
 rous manner 3 : BOTCH (~ed the play)
 butcher-er-bird 'bū-chor-'bōrd n (1668) : any of various shrieks
 butcher block n (1967) : a block made with thick strips of usu. lami-
 nated hardwood — butcher-block adj
 butcher-er-ly 'bū-chor-ē-lē adj (1513) : resembling a butcher : SAVAGE
 butcher paper n (1944) : heavy brown or white paper used esp. for
 wrapping meats
 butcher-ery 'būch-ē-, 'bū-chor-ē n, pl -er-ies (14c) 1 chiefly Brit
 : SLAUGHTERHOUSE 2 : the preparation of meat for sale 3 : cruel and
 ruthless slaughter of human beings 4 : BOTCH
 bute 'byūt n (1968) : PHENYLBUTAZONE
 bu-tēne 'byū-tēn n [ISV *butyl* + -ene] (1885) : a normal butylene
 bu-teo 'byū-tē-ō n, pl -te-os [NL, genus name, fr. L. a hawk] (1940)
 : any of a genus (*Buteo*) of hawks with broad rounded wings, relatively
 short tails, and soaring flight
 but for prep (12c) : EXCEPT FOR
 but-ler 'bū-lər n [ME *buteler*, fr. OF *bouteillier* bottle bearer, fr.
bouteille bottle — more at BOTTLE] (13c) 1 : a manservant having
 charge of the wines and liquors 2 : the chief male servant of a house-
 hold who has charge of other employees, receives guests, directs the
 serving of meals, and performs various personal services
 butler's pantry n (1816) : a service room between kitchen and dining
 room
 butt 'bat' vb [ME, fr. OF *boter*, of Gmc origin; akin to OHG *bōzan* to
 beat — more at BEAT] vi (13c) : to thrust or push head foremost
 : strike with the head or horns ~ vt : to strike or shove with the head
 or horns
 butt n (1647) : a blow or thrust usu. with the head or horns
 butt n [ME, fr. MF *botte*, fr. OPov *bota*, fr. LL *butta*] (14c) 1 : a
 large cask esp. for wine, beer, or water 2 : any of various units of
 liquid capacity; esp : a measure equal to 108 imperial gallons (491
 liters)
 butt n [ME, partly fr. MF *but* target, end, of Gmc origin; akin to ON
butr log, LG *butt* blunt; partly fr. MF *butte* backstop, fr. *but* target]
 (14c) 1 : a : a backstop (as a mound or bank) for catching missiles
 shot at a target 2 : TARGET c pl : RANGE 5c d : a blind for shooting
 birds 2 : a : LIMIT, BOUND b archaic : GOAL (here is my journey's
 end, here is my ~ — Shak.) 3 : an object of abuse or ridicule : VICTIM
 (~ of all their jokes)
 butt n [ME; prob. akin to ME *butto* buttock, LG *butt* blunt] (15c) 1
 : BUTTOCKS — often used as a euphemism for ass in idiomatic expres-
 sions (kick your ~ over here) (kick ~) (saved our ~) 2 : the large or
 thicker end part of something : a : a lean upper cut of the pork should-
 er b : the base of a plant from which the roots spring : c : the
 thicker or handle end of a tool or weapon 3 : an unused remainder 4
 : the part of a hide or skin corresponding to the animal's back and
 sides
 butt vb [partly fr. *butt*, partly fr. *but*] vi (1785) : ABUT — used with
 on or against ~ vt 1 : to place end to end or side to side without
 overlapping 2 : to trim or square off (as a log) at the end 3 : to re-
 duce (as a cigarette) to a butt by stubbing or stamping
 butte 'byūt n [F. *knoll*, fr. MF *butte*] (1805) : an isolated hill or
 mountain with steep or precipitous sides usu. having a smaller summit
 area than a mesa
 but-ter 'bū-tər n [ME, fr. OE *butere*, fr. L. *butyrum*, fr. Gk *boutyron*,
 fr. *bous* cow + *tyros* cheese; akin to Av. *tūri* curds — more at COW]
 (bef. 12c) 1 : a solid emulsion of fat globules, air, and water made by
 churning milk or cream and used as food 2 : a buttery substance : as
 a : any of various fatty oils remaining nearly solid at ordinary tempera-
 tures b : a creamy food spread; esp : one made of ground roasted
 nuts (peanut ~) 3 : FLATTERY — but-ter-less 'lās-ē-ē adj
 butter'v (15c) : to spread with or as if with butter
 but-ter-and-egg 'bū-tər-'n-ēgz, -ēgz n pl but sing or pl in constr
 (1776) : a common Eurasian perennial herb (*Linaria vulgaris*) of the
 snapdragon family that has showy yellow and orange flowers and is
 naturalized in much of No. America — called also *toadflax*
 but-ter-ball 'bū-tər-bōl n (1813) 1 : BUFFLEHEAD 2 : a chubby
 person
 butter bean n (ca. 1819) 1 : LIMA BEAN : as : a chiefly Southern & Mid-
 land : a large dried lima bean b : SIEVA BEAN 2 : WAX BEAN 3 : a
 green shell bean esp. as opposed to a snap bean
 butter clam n (1936) : either of two clams (*Saxidomus nuttallii* and *S.*
giganteus) of the Pacific coast of No. America
 but-ter-cup 'bū-tər-'kəp n (1777) : any of a genus (*Ranunculus*) of the
 family Ranunculaceae, the buttercup family) of herbs with yellow or
 white flowers and alternate leaves
 but-ter-fat 'bū-tər-'fat n (1889) : the natural fat of milk and chief constitu-
 ent of butter, consisting essentially of a mixture of glycerides (as those
 derived from butyric, capric, caproic, and caprylic acids)
 but-ter-flin-gered 'bū-tər-'flīng-əd adj (1615) : apt to let things fall or slip
 through the fingers : CARELESS — but-ter-flin-gers 'bū-tər-'flīng-əz n pl but sing
 or pl in constr
 but-ter-fish 'bū-tər-'fīsh n (1674) : any of numerous bony fishes, (esp. family
 Stromateidae) with a slippery coating of mucus
 but-ter-fly 'bū-tər-'flī n, often attrib (bef. 12c) 1 : any of numerous slen-
 der-bodied diurnal insects (order Lepidoptera) with broad, often
 brightly colored wings 2 : something that resembles or suggests a
 butterfly; esp : a person chiefly occupied with the pursuit of pleasure
 3 : a swimming stroke executed in a prone position by moving both
 arms in a circular motion while kicking both legs up and down 4 pl
 : a feeling of hollowness or queasiness caused esp. by emotional or
 nervous tension or anxious anticipation

but'about 'bū-kitten F table 'bū-further 'bū-ash 'bū-ace 'bū-mop, mar
 'bū-out 'bū-chin 'bū-bet 'bū-easy 'bū-go 'bū-hit 'bū-ice 'bū-job
 'bū-sing 'bū-go 'bū-law 'bū-boy 'bū-thin 'bū-thin 'bū-the 'bū-ice 'bū-foot
 'bū-yet 'bū-vision 'bū-k, 'bū-æ, 'bū-æ, 'bū-æ, 'bū-æ 'bū-see Guidé to Pronunciation



Merriam- Webster's Collegiate® Dictionary

TENTH EDITION

Merriam-Webster, Incorporated
Springfield, Massachusetts, U.S.A.



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Library of Congress Cataloging in Publication Data
Main entry under title.

Merriam-Webster's collegiate dictionary. — 10th ed.

p. cm.

Includes index.

ISBN 0-87779-708-0 (unindexed). — ISBN 0-87779-709-9 (indexed).

— ISBN 0-87779-710-2 (deluxe). — ISBN 0-87779-707-2 (laminated cover).

1. English language—Dictionaries. I. Merriam-Webster, Inc.

PE1628.M36 1993

423—dc20

93-20206

CIP.

Abbrevi

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Made in the United States of America

6RMCN93

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor	: Philip F. Fox	
Appln. No.	: 09/502,701	
Filed	: February 11, 2000	Group Art Unit: 3643
Title	: ICE FISHING TACKLE STORAGE APPARATUS	Examiner: K. Rowan
Docket No.	: F351.12-0001	

EXHIBIT C

Definition of “windlass” from:

Merriam Webster’s Collegiate Dictionary
Page 1355, 10th ed. (Merriam-Webster, Incorporated 1993)

ill I will I or will ye will
without choice 2: in

1918 Ger. surgeon
that primarily affects

Wilson 1937 Eng.
it is determined by an
arthritic changes in the
muslin deficiency and

en, prob. fr. MD; akin
lose turgor from lack
some limp 2: to grow

wilting: the state of
ase) of plants marked
nd drooping and often
active virus disease of
tion and shriveling of

nd) (1774): a carpet
aving a velvet cut pile

es: CRAFTY syn see
im
tunnel auger; akin to
struments for boring

15c) archaic: to bore

ak, cowardly, or ind-
wimpish 'wim-
'wim-pē/adj



wimple 1

enus sexual desire,
et. 12c) 1 a: to get
y work: EARN (striv-
gain in or as if in bat-
var) 3 a: to make
often used with over-
to induce to accept
al, or clay) by mining
ng c: to recover (as
effort ~ vi 1: to
ceed in arriving at a
n-na-ble 'wi-na-bəl/

th (as of a horse race)
n to kick impatiently;
origin; akin to OHG
to shrink back invol-
— wince n

E wines; akin to OE
chimes or instruments
ie with one or more
r hauling or hoisting
motion to a machine

h a winch — winch-

me used by the origi-
uter disk technology
he rigid metal disks
inst dust

ib [ME, fr. OE; akin
kt witi it blows] (bef.
city; esp: the earth's
tion horizontally b

SOLAR WIND, STELLAR
force or agency that
withstood the ~s of

EATH 4a b: BREATH
gas generated in the
ir or gas b archaic

a: mere talk: idle
disaffection 7 a: air
ight information esp.
e plan) 8 a: musi-

ings and percussion
tion from which the
one of the cardinal

lowing — wind-less
wind: in the same
e to the wind: as

id — have the wind

ad 1: to be to windward of: 2: to be on the scent of: 3: to have a
superior position to — In the wind: about to happen: ASTIR, APOOT
(change is in the wind) — near the wind: 1: close to the wind: 2
close to a point of danger: near the permissible limit — off the
wind: away from the direction from which the wind is blowing — on
the wind: toward the direction from which the wind is blowing — on
the wind or to the winds: ASIDE AWAY (throw caution to the wind)
— under the wind: 1: to leeward 2: in a place protected from the
wind: under the lee

wind 'wind\ n (15c): 1: to detect or follow by scent: 2: to expose
to the air or wind: dry by exposing to air: 3: to make short of breath
4: to regulate the wind supply of (an organ pipe): 5: to rest (as a
horse) in order to allow the breath to be recovered ~ vi 1: to scent
game 2 dial: to pause for breath

wind 'wind\ vb windied 'win-dēd, 'win- or wound
'wound\ wind-ing 'wind\ v (1586): 1: to cause (as a horn) to
sound by blowing: BLOW 2: to sound (as a call or note) on a horn
(sound a rousing call — R. L. Stevenson) ~ vi: to produce a sound
on a horn

wind 'wind\ vb wound 'wound\ also winded; wind-ing [ME, fr.
OE *windan* to twist, move with speed or force, brandish; akin to OHG
windan to wind, Umbrian *phavendu* let him turn aside] vt (bef. 12c) 1
a, obs: WEAVE, b: ENTANGLE, INVOLVE c: to introduce sinuously or
stealthily: INSINUATE 2 a: to encircle or cover with something pli-
able: bind with loops or layers b: to turn completely or repeatedly
about an object: COIL, TWINE c: (1): to hoist or haul by means of a
rope or chain and a windlass. (2): to move (a ship) by hauling on a
capstan d: (1): to tighten the spring of (~ a clock) (2) obs: to
make tighter: TIGHTEN, TUNE (3): CRANK e: to raise to a high level
(as of excitement or tension) — usu. used with up 3: a: to cause, to
move in a curving line or path b archaic: to turn the course of; esp
to lead (a person) as one wishes c: (1): to cause (as a ship) to
change direction: TURN (2): to turn (a ship) end for end: d: to tra-
verse on a curving course (the river ~s the valley) e: to effect by or
as if by curving ~ vi 1: BEND, WARP 2 a: to have a curving course
or shape: extend in curves b: to proceed as if by winding 3: to
move so as to encircle something 4: to turn when lying at anchor

wind 'wind\ n (14c) 1: a mechanism (as a winch) for winding 2
an act of winding the state of being wound: 3: COIL, TURN 4: a
particular method of winding

wind-age 'win-dij\ n [wind] (ca. 1710) 1 a: the space between the
projectile of a smoothbore gun and the surface of the bore b: the
difference between the diameter of the bore of a muzzle-loading rifle
cannon and that of the projectile cylinder 2 a: the amount of sight
deflection necessary to compensate for wind displacement in aiming a
gun b: (1): the influence of the wind in deflecting the course of a
projectile (2): the amount of deflection due to the wind 3: the
surface exposed (as by a ship) to the wind

wind-bag 'win(d)-bag\ n (1827): an exhaustively talkative person
wind-bell 'win-bēl\ n (1901): 1: WIND CHIME — usu. used in pl. 2: a
bell that is light enough to be moved and sounded by the wind

wind-blast 'win-blāst\ n (1942): the destructive effect of air friction on a
pilot ejected from a high-speed airplane

wind-blown 'win-blōn\ adj (1600): blown by the wind; esp: having a
permanent set or character of growth determined by the prevailing
winds (~ trees)

wind-borne 'win-bōrn\, -bōrn\ adj (1842): carried by the wind (~ pol-
len) (~ soil deposits)

wind-break 'win-brāk\ n (1861): a growth of trees or shrubs serving to
break the force of wind; broadly: a shelter (as a fence) from the wind

wind-breaker 'win-brāk-er\ n (fr. a trademark) (1918): an outer jacket
made of wind-resistant material

wind-bro-ken 'win-brō-kēn\ adj (1603) of a horse: affected with pulmo-
nary emphysema or heaves

wind-burn 'win-bōrn\, -bōrn\ n (1925): irritation of the skin caused by wind
— wind-burned 'win-bōrn\ adj

Wind-cheat-er 'win(d)-chē-tər\ trademark — used for a windbreaker
wind-chill 'win(d)-chil\ n (1939): a still-air temperature that would
have the same cooling effect on exposed human skin as a given combi-
nation of temperature and wind speed — called also *chill factor*, *wind-
chill factor*, *windchill index*

wind-chime 'win(d)-chīm\ n (1927): a cluster of small often sculptured pieces (as of
metal or glass) suspended so as to chime when blown by the wind —
usu. used in pl.

wind-down 'win-dān\ v (1952) 1: to draw gradually toward an end 2: RELAX.
UNWIND ~ vi: to cause a gradual lessening of usu. with the intention
of bringing to an end

wind-er 'win-dər\ n [wind] (1552): one that winds: as a: a worker
or machine that winds thread and yarn b: a key for winding a mech-
anism (as a clock) c: a step that is wider at one end than at the other
(as in a spiral staircase)

wind-fall 'win(d)-fōl\ n (15c) 1: something (as a tree or fruit) blown
down by the wind 2: an unexpected, unearned, or sudden gain or
advantage

wind-farm 'win-fārm\ n (1980): an area of land with a cluster of wind turbines for
driving electrical generators

wind-flow-er 'win-flāu(-ə)-r\ n (1551): ANEMONE 1
wind-gall 'win-gōl\ n (ca. 1534): a soft tumor or synovial swelling on a
horse's leg in the region of the fetlock joint

wind-gap 'win-gāp\ n (1769): a notch in the crest of a mountain ridge: a pass
not occupied by a stream — compare WATER GAP

wind-harp 'win-hārp\ n (1813): AEOLIAN HARP

wind-ho-ver 'win-hā-vər\, -hā- (1674) Brit: KESTREL

wind-ing 'win-dij\ n (bef. 12c) 1: material (as wire) wound or
coiled about an object (as an armature); also: a single turn of the
wound material 2 a: the act of one that winds b: the manner of
winding something 3: a curved or sinuous course, line, or progress

winding-adj (1530): marked by winding: as a: having a curved or
spiral course or form (a ~ stairway) b: having a course that winds (a
~ road)

wind-ing-sheet 'win-dij-shēt\ n (15c): a sheet in which a corpse is
wrapped

wind-ing-up 'win-dij-əp\ n (ca. 1858) Brit: the process of liquidat-
ing the assets of a partnership or corporation in order to pay creditors
and make distributions to partners or shareholders upon dissolution

wind instrument n (1582): a musical instrument (as a trumpet, clar-
inet, or organ) sounded by wind; esp: one sounded by the player's
breath

wind-jam-mer 'win(d)-ja-mər\ n (1880): a sailing ship; also: one of
its crew — wind-jam-mer 'win-
wind-lass 'win(d)-ləs\ n [ME *wyndlas* alter. of *wyndas*, fr. ON
windass, fr. *winda* to wind (akin to OHG *wintan* to wind) + *ass* pole;
akin to Goth *ans* beam] (15c): any of various machines for hoisting or
hauling: as a: a horizontal barrel supported on vertical posts and
turned by a crank so that the hoisting rope is wound around the barrel
b: a steam or electric winch with horizontal or vertical shaft and two
drums used to raise a ship's anchor

windlass vt (1834): to hoist or haul with a windlass

wind-le-straw 'win-dl-strō\, 'wi-nl- (assumed) ME, fr. OE *wind-
delstraw*, fr. *windel* basket (fr. *windan* to wind) + *straw* straw] (bef.
12c) Brit: a dry thin stalk of grass

wind-mill 'win(d)-mil\ n (14c) 1 a: a mill or machine operated by
the wind usu. acting on oblique vanes or sails that radiate from a hori-
zontal shaft; esp: a wind-driven water pump or electric generator b:
the wind-driven wheel of a windmill 2: something that resembles
or suggests a windmill; esp: a calisthenic exercise that involves alter-
nately lowering each outstretched hand to touch the toes of the oppo-
site foot 3 [fr. the episode in *Don Quixote* by Cervantes in which the
hero attacks windmills under the illusion that they are giants]: an
imaginary wrong, evil, or opponent — usu. used in the phrase *to tilt at
windmills*

windmill vt (1914): to cause to move like a windmill ~ vi: to move
like a windmill; esp: to spin from the force of wind

wind-ow 'win(-dō)-, often attrib [ME *windowe*, fr. ON *windauga*, fr.
windr wind (akin to OE *wind*) + *auga* eye; akin to OE *ēage* eye — more
at EYE] (13c) 1 a: an opening esp. in the wall of a building for ad-
mission of light and air that is usu. closed by casements or sashes con-
taining transparent material (as glass) and capable of being opened and
shut b: WINDOWPANE c: a space behind a window of a retail store
containing displayed merchandise d: an opening in a partition or
wall through which business is conducted (a bank teller's ~) 2: a
means of entrance or access; esp: a means of obtaining information (a
~ on history) 3: an opening (as a shutter, slot, or valve) that resem-
bles or suggests a window 4: the transparent panel or opening of a
window envelope 5: the framework (as a shutter or sash with its
fittings) that closes a window opening 6: CHAFF 4 7: a range of
wavelengths in the electromagnetic spectrum to which a planet's atmo-
sphere is transparent 8 a: an interval of time within which a rocket
or spacecraft must be launched to accomplish a particular mission b:
an interval of time during which certain conditions or an opportunity
exists (a ~ of vulnerability) 9: an area at the limits of the earth's
sensible atmosphere through which a spacecraft must pass for success-
ful reentry 10: any of the areas into which a computer display may
be divided and on which distinctly different types of information are
displayed — win-dow-less 'dō-ləs\, -dā- adj — out the window
: out of existence, use, or consideration

window box n (ca. 1885): a box designed to hold soil for growing
plants at a window sill

window dressing n (1895) 1: the display of merchandise in a retail
store window 2 a: the act or an instance of making something ap-
pear deceptively attractive or favorable b: something used to create a
deceptively favorable or attractive impression — win-dow-dress

'win-dō-dres\ vi — window dresser n

wind-owed 'win(-dōd)\, -dād\ adj (15c): having windows esp. of a
specified kind — often used in combination

window envelope n (1914): an envelope having an opening through
which the address on the enclosure is visible

wind-ow-pane 'win-dō-pān\, -dā- n (1819) 1: a pane in a window
2: TATTERSALL

window seat n (ca. 1745) 1: a seat built into a window recess 2: a
seat next to a window (as in a bus or airplane)

window shade n (1810): a shade or curtain for a window

wind-ow-shop 'win-dō-shāp\, -dā- vi (1922): to look at the displays
in retail store windows without going inside the stores to make pur-
chases — win-dow-shop-per n

wind-ow-sill 'win-sil\ n (1703): the horizontal member at the bottom of
a window opening

wind-pipe 'win(d)-pip\ n (1530): TRACHEA
wind-poll-nat-ed 'pā-lə-nā-təd\ adj (1884): pollinated by wind-
borne pollen

wind-proof 'win-prūf\ adj (1616): impervious to wind (a ~ jacket)

wind-rose 'win-d-rōz\ n [G. *Windrose* compass card] (1846): a dia-
gram showing for a given place the relative frequency or frequency and
strength of winds from different directions

wind-row 'win(d)-rō\ n (ca. 1534) 1 a: a row of hay raked up to
dry before being baled or stored b: a similar row of cut vegetation (as
grain) for drying 2: a row heaped up by or as if by the wind 3 a:
a long low ridge of road-making material scraped to the side of a road b:
BANK, RIDGE, HEAP

windrow vt (1729): to form (as hay) into a windrow

wind-screen 'win(d)-skrēn\ n (1858) 1: a screen that protects
against the wind 2 chiefly Brit: WINDSHIELD

wind-shake n (1545): shake in timber attributed to high winds

wind-shear n (1941): a radical shift in wind speed and direction that
occurs over a very short distance

wind-shield 'win(d)-shēld\ n (1902): a transparent screen (as of
glass) in front of the occupants of a vehicle

wind sock n (1928): a truncated cloth cone open at both ends and
mounted in an elevated position to indicate the direction of the wind

'ā\ abut 'ā\ kitten, F table 'ār\ further 'ā\ ash 'ā\ ace 'ā\ mop, mar
'ā\ out 'ā\ chin 'ā\ bet 'ā\ easy 'ā\ go 'ā\ hit 'ā\ ice 'ā\ job
'ā\ sing 'ā\ go 'ā\ law 'ā\ boy 'ā\ thin 'ā\ the 'ā\ foot 'ā\ foot
'ā\ yet 'ā\ vision 'ā\ k, o, c, e, u, w, x; see Guide to Pronunciation



Merriam- Webster's Collegiate[®] Dictionary

TENTH EDITION

Merriam-Webster, Incorporated
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Library of Congress Cataloging in Publication Data
Main entry under title:

Merriam-Webster's collegiate dictionary. — 10th ed.

p. cm.

Includes index.

ISBN 0-87779-708-0 (unindexed). — ISBN 0-87779-709-9 (indexed).

— ISBN 0-87779-710-2 (deluxe). — ISBN 0-87779-707-2 (laminated cover).

1. English language—Dictionaries. I. Merriam-Webster, Inc.

PE1628.M36 1993

423—dc20

93-20206

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6RMcn93

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor	: Philip F. Fox	
Appln. No.	: 09/502,701	
Filed	: February 11, 2000	Group Art Unit: 3643
Title	: ICE FISHING TACKLE STORAGE APPARATUS	Examiner: K. Rowan
Docket No.	: F351.12-0001	

EXHIBIT D

Definition of “cup” from:

Merriam Webster’s Collegiate Dictionary
Page 283, 10th ed. (Merriam-Webster, Incorporated 1993)

cuneiform 2

\ə\ about \ʔ\ kitten, F table \ər\ further \ə\ ash \ā\ ace \ā\ mop, mar
 \au\ out \ch\ chin \el\ bet \ē\ easy \g\ go \i\ hit \ī\ ice \j\ job
 \ŋ\ sing \ō\ go \oi\ law \oi\ boy \th\ thin \th\ the \ū\ foot \ū\ foot
 \y\ yet \zh\ vision \ə, k, ʔ, œ, ē, u; ē; ʔ\ see Guide to Pronunciation



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